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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Greenville County
Honorable Edward W. Miller, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

v

KARACUS KOREAN FREEMAN,

APPELLANT

APPELLATE CASE NO. 2016-000800

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
)
 -VS-)
)
 KARACUS KOREAN FREEMAN,)
)
 DEFENDANT.)
 _____)

2014-GS-23-08489

TRANSCRIPT OF RECORD

APRIL 5, 2016
GREENVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE EDWARD W. MILLER

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

HUNTER BLOUIN, ASSISTANT SOLICITOR
STAN OVERBY, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

SCOTT ROBINSON, ESQ.

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

1 negotiations. He was always -- the offer was to always
2 plead straight up to the heroin charge. He has some other
3 pending charges that we were going to take care of,
4 obviously, that is no longer on the table going forward.

5 **THE COURT:** Okay.

6 (Pause)

7 (Whereupon the jury panel entered the courtroom)

8 **THE COURT:** All right. Ladies and gentlemen, I want to
9 welcome y'all up to courtroom number four, introduce myself.
10 Some of you I may have seen, I recognize. The rest of you,
11 my name is Ned Miller. I'm one of your local circuit court
12 judges here in the Thirteenth Circuit. And I am conducting
13 a term of general sessions court or what is also known as
14 criminal court this week.

15 Yesterday you all were qualified to serve as jurors,
16 generally for the week. And now we have to qualify you to
17 serve as jurors for this particular case. So please
18 remember you're under oath and to fully, truthfully answer
19 all the questions that I will propose to you as we go
20 forward.

21 Let me just introduce the case to you. This is
22 indictment number 2014-8489, the State versus Karacus Korean
23 Freeman. It's an indictment for trafficking heroin. And
24 this indictment alleges that Karacus Korean Freeman did in
25 Greenville County on or about the 26th day of May, 2014

1 knowingly sell, manufacture, deliver or bring into South
2 Carolina or did knowingly provide financial assistance or
3 otherwise aid, abet, attempt or conspire to sell,
4 manufacture, deliver or bring into the State or was
5 knowingly in actual or constructive possession of more than
6 four grams of heroin.

7 Now to this indictment Mr. Freeman has pled not guilty.
8 And as such, certain rights attach, which belong to every
9 person who is charged with a crime in this country. And
10 that is he is presumed to be innocent unless and until a
11 jury finds, based on proof provided by the State, who always
12 has the burden, beyond any reasonable doubt each and every
13 element of the offense that is charged. Please keep that in
14 mind throughout the course of these proceedings.

15 I'd also point out to you that this indictment, which I
16 read to you, is not evidence. And you should take no
17 presumption or any inference from the fact that it issued
18 with respect to the question of guilt or innocence. It's
19 just the formal document that allows this case to wind its
20 way through our system to arrive here in court for
21 resolution.

22 Now before I go further, I would ask the attorneys to
23 stand and introduce themselves. All right.

24 **MR. BLOUIN:** My name is Hunter Blouin. And I'm an
25 assistant solicitor here in Greenville County.

1 versus Karacus Korean Freeman, indicted for trafficking
2 heroin, and a true verdict rendered according to the law and
3 the evidence so help you God.

4 **THE JURY:** I will.

5 **MADAME CLERK:** Thank you.

6 **THE COURT:** All right. Thank you. If you all will go
7 with the bailiff, and we'll get back with you as quickly as
8 possible. We do have a couple of matters we need to go over
9 before we start the trial.

10 (Whereupon the jury exited the courtroom at 11:10 am)

11 **THE COURT:** All right. Defense motions. Let's go.

12 **MR. ROBINSON:** Please the Court.

13 **THE COURT:** Yeah.

14 **MR. ROBINSON:** Your Honor, the first motion we have is
15 a motion to sequester witnesses, which I believe that they
16 have consented to in the past ---

17 **THE COURT:** Okay. Not an issue. They're sequestered.

18 **MR. ROBINSON:** The next issue we have, Your Honor, is
19 regarding the stop itself. We have a motion to suppress in
20 this case. I'd like to call ---

21 **THE COURT:** Is it a warrantless search?

22 **MR. ROBINSON:** What it is, Your Honor, we're basing it
23 on a reasonable suspicion as far as the stop itself.

24 **THE COURT:** So there was no warrant. It was a
25 warrantless search, is that right?

ROBERT ARNOLD - DIRECT EXAMINATION BY MR. BLOUIN

1 MR. BLOUIN: Yes, Your Honor.

2 THE COURT: Okay. Burden shifts. Let's go. Get your

3 guy and let's go.

4 MR. BLOUIN: We'd call Robert Arnold.

5 MADAME CLERK: Sir, would you please come forward to

6 take the oath. Would you please place your left hand on the

7 Bible and raise your right.

8 Robert Arnold, being duly

9 sworn testified as follows;

10 MADAME CLERK: Thank you. You may be seated. Would

11 you please state your name for the record.

12 MR. ARNOLD: Robert Arnold.

13 MADAME CLERK: Thank you.

14 Direct Examination by Mr. Blouin:

15 Q. Mr. Arnold, how are you doing today?

16 A. All right.

17 Q. Good. Can you please -- do you know the Defendant in

18 this case?

19 A. I do a little bit.

20 Q. All right. And what's his name?

21 A. I don't know his full name.

22 Q. How do you know him?

23 A. You know, running around with some of the same people.

24 Q. Okay. What would you call him if you could -- do you

25 know his name or nickname or anything like that?

ROBERT ARNOLD - DIRECT EXAMINATION BY MR. BLOUIN

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1 A. Not really. I mean, you know, I just kind of heard it
2 through some other people on the street, you know.

3 Q. So you have no knowledge of the Defendant in this case?

4 A. Like I said, I seen him around a couple of times, but I
5 don't just know him like that.

6 Q. Okay. Mr. Arnold, you have been arrested previously in
7 the past, haven't you?

8 A. Yes, sir, I have.

9 Q. And multiple occasions for different types of drug
10 offenses?

11 A. Yes, sir.

12 Q. Okay. Do you remember being arrested on or about May
13 26th, 2014?

14 A. I remember being arrested in 2014, but I don't -- I
15 don't remember. Like I said, I had them seizures. So, you
16 know, I really can't remember.

17 Q. Okay. Do you remember at any point after your arrest
18 being taken and speaking with an Officer Sturman?

19 A. No, sir, I don't.

20 Q. You don't remember him being the one that arrested you?

21 A. No, sir, I don't.

22 Q. Okay. Do you remember placing a phone call with
23 Officer Sturman to the Defendant?

24 A. Like I told you out there, I don't -- I don't recall
25 none of that.

ROBERT ARNOLD - DIRECT EXAMINATION BY MR. BLOUIN

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1 Q. So you're not saying it didn't happen, you're saying
2 you just don't remember?

3 A. To be honest with you, I don't -- I don't think I did
4 it, but I don't -- I don't remember it. I don't remember
5 doing it.

6 Q. Okay. Mr. Arnold, do you remember this case being
7 originally called for trial back in, I believe, March of
8 this year?

9 A. Um, that came to Greenville County?

10 Q. Right.

11 A. Yes, sir.

12 Q. Do you remember being in Greenville County?

13 A. Yes, sir, I do.

14 Q. Do you remember being -- refusing to be transported
15 here?

16 A. Yes, sir.

17 Q. To testify like you are right now?

18 A. (Affirmative nod).

19 **THE COURT:** You have to answer, speak.

20 A. Oh, yes, sir. Yes, sir.

21 **MR. BLOUIN:** No further questions for Mr. Arnold.

22 **THE COURT:** Cross.

23 **MR. ROBINSON:** I have no cross of this witness, Your
24 Honor.

25 **THE COURT:** Okay. Step down. Thank you.

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

30

1 Q. Okay. What sort of -- what sort of responsibilities
2 did you have as a member of patrol in Greenville ---

3 A. Answered service calls and worked my zone area.

4 Q. Okay. Did you have any specialized experience or
5 training with regards to law enforcement?

6 A. I've taken numerous training classes for different
7 types of investigations, narcotics. And I was trained at
8 the Criminal Justice Academy.

9 Q. Okay. Now, on May 26th, 2014 did you have an
10 opportunity to come across a Robert Arnold?

11 A. Yes.

12 Q. Okay. Describe how that event occurred.

13 A. I was on routine patrol at Shemwood Crossing, which was
14 in my zone. And I know Mr. Arnold to be on trespass from
15 that location from previous encounters. And at that time I
16 made contact with him in front of the seven building and
17 placed him under arrest.

18 Q. Okay. What did you place him under arrest for?

19 A. Trespassing.

20 Q. About what time did this occur?

21 A. Approximately 7:42 pm.

22 Q. Okay. Now, when you placed him under arrest what, if
23 anything, did you discover?

24 A. I discovered three pills in his pocket identified to be
25 a scheduled substance, and it was required a prescription to

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

1 carry.

2 Q. Okay. And where did you -- where did you discover
3 these?

4 A. I discovered these at the Greenville County Detention
5 Center prior to booking.

6 Q. So you didn't discover them at the scene?

7 A. No.

8 Q. And he was under arrest for trespass?

9 A. Yes, sir.

10 Q. Okay. Were you involved in a discussion with Mr.
11 Arnold about those narcotics?

12 A. Yes.

13 Q. What was the context of that discussion?

14 A. We discussed a -- him assisting me in a further
15 investigation for my assistance with his charges on these
16 pills.

17 Q. Okay. And what -- what was it that Mr. Arnold agreed
18 to do?

19 A. He agreed to make a phone call to a known supplier of
20 his.

21 Q. Okay. A supplier of what?

22 A. Heroin.

23 Q. Okay. And what did you agree to do?

24 A. I agreed to walk him outside the detention center and
25 let him make that phone call.

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

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1 Q. Okay. What did you -- what was essentially the benefit
2 you were conferring on Mr. Arnold?

3 A. He would be getting assistance with his charges. That
4 would be his benefit.

5 Q. Okay. Now, this phone conversation, who placed that
6 phone conversation?

7 A. Mr. Arnold.

8 Q. Okay. Did you force Mr. Arnold to make that -- place
9 that phone call in any other way other than conferring that
10 benefit?

11 A. No, sir.

12 Q. Okay. Who, to the best of your knowledge, was he to
13 place the phone call to?

14 A. An individual he identified as "K".

15 Q. Okay. And what did he say "K" was involved in?

16 A. Drug distribution, heroin sales.

17 Q. Okay. And this call, where was this call placed?

18 A. Right outside the detention center, in front of the
19 intoxilyzer room.

20 Q. Okay. And was this call placed on his phone or yours?

21 A. His phone.

22 Q. Okay. And was this call placed on speaker phone or ---

23 A. Speaker phone.

24 Q. Okay. What do you recall being the substance of
25 conversation that was made?

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

33

1 A. It was an inquiry about purchasing more heroin and
2 inquiring ---

3 Q. Who inquired who?

4 A. Arnold was inquiring to "K" about purchasing more
5 heroin and asking where he was at at the current time.

6 Q. Okay. And what information did you receive as a result
7 of that conversation?

8 A. I was advised that he was in the area of Joe Louis
9 Street. Mr. Arnold provided a vehicle that he should be
10 driving, a white Monte Carlo, blue racing stripes and rims
11 on it.

12 Q. Okay. And about when did they -- about when was this
13 vehicle supposed to be near Joe Louis Street?

14 A. Approximately fifteen to twenty minutes after he made
15 that phone call. So approximately nine, 9:15.

16 Q. Okay. And he made the phone call about what time?

17 A. Between 8:40 and nine.

18 Q. Okay. So he places the phone call. What -- did Mr.
19 Arnold have any kind of confidential informant agreement?

20 A. No, sir.

21 Q. Okay. Had you ever worked Mr. Arnold as a confidential
22 informant before?

23 A. No, sir.

24 Q. Okay. Did Mr. Arnold -- did Mr. Arnold identify
25 himself on the phone when he placed the call?

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

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1 A. I can't recall if he identified him by name or not.

2 Q. Okay. Now, but he used his phone number?

3 A. That's correct.

4 Q. Okay.

5 A. Correct.

6 Q. So after this incident occurred -- well, let me ask you
7 this. Do you have any -- did you have any reason to suspect
8 that he might be a reliable -- other than -- that he might
9 be reliable due to prior instances with him?

10 A. He was -- my previous encounters, he's always been
11 honest with me.

12 Q. But you've never given any kind of -- you've never used
13 him in this capacity ---

14 A. That is correct. That's correct.

15 Q. Okay. So you don't know -- so do you have any opinion
16 as to his reliability in this capacity?

17 A. No. No, sir.

18 Q. Okay. But what he told you -- why did you feel like
19 his information was reliable in this particular case?

20 A. Based on the phone call and based on his, I guess, what
21 he was telling me, and describing the car and everybody, and
22 where he's supposed to be, I felt it was good information.

23 Q. Okay. Are you familiar with any of the -- are you
24 familiar with any of Mr. Arnold's drug past?

25 A. I do know I've caught him with marijuana before. And

ANDREW STURMAN - CROSS EXAMINATION BY MR. ROBINSON

35

1 he's been caught with heroin before as well.

2 Q. Okay. So would it be fair to say that you have reason
3 to believe he would know people who ---

4 A. That's correct.

5 Q. --- conducted this operation? What did you do with --
6 what happened to Mr. Arnold after this phone call was made?

7 A. I placed him into detention.

8 Q. Okay. What did you do with the pills?

9 A. I placed them into property and evidence.

10 Q. Okay. And what did you do with the information
11 thereafter?

12 A. I relayed this information to Officer Reyes.

13 Q. Okay. And Officer Reyes is with?

14 A. The Greenville City Police Department.

15 Q. Okay. And you relayed that information about what
16 time?

17 A. Approximately nine pm.

18 **MR. OVERBY:** Court's indulgence, Your Honor.

19 (Pause)

20 **MR. OVERBY:** Your Honor, I have no further questions.

21 Q. Please answer any questions Defense has.

22 **THE COURT:** Okay. Cross.

23 **MR. ROBINSON:** May it please the Court.

24 **Cross Examination by Mr. Robinson:**

25 Q. Officer, do you have any idea what the phone number

ANDREW STURMAN - CROSS EXAMINATION BY MR. ROBINSON

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1 that Mr. Arnold called was?

2 A. No, sir.

3 Q. No idea? And you said you listened to the phone call,
4 is that correct?

5 A. Yes, sir.

6 Q. But you have no idea who that person was on the phone,
7 do you?

8 A. No, sir.

9 Q. As far as Mr. Arnold goes, I think you testified too
10 that there was no CI agreement, you had no information as
11 far as Mr. Arnold's reliability because you hadn't used him
12 before, correct?

13 A. That's correct.

14 Q. Okay. So you had no idea whether he was reliable or
15 not, is that correct?

16 A. Correct.

17 Q. And as far as the drug past that Mr. Arnold had, that
18 doesn't -- didn't tell you anything about whether he was
19 reliable or not?

20 A. No, sir.

21 Q. So really he could -- he could pick out anyone that he
22 didn't like or liked and say that guy is the guy that's
23 doing heroin ---

24 **MR. OVERBY:** Objection. Calls for speculation.

25 **THE COURT:** Go ahead. Go ahead.

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOVIN

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1 MR. ROBINSON: I'll withdraw the question, Your Honor.

2 That's all I have. Thank you.

3 THE COURT: Okay.

4 MR. OVERBY: No recross [sic], Your Honor.

5 THE COURT: All right. But you dealt with him in the

6 past, is that right?

7 A. Yes, sir.

8 THE COURT: And you said that your dealings with him in

9 the past had resulted in truthful conversations?

10 A. Yes, sir. Yes, sir.

11 THE COURT: Okay. Thanks.

12 A. Um-hum (affirmative).

13 THE COURT: You can step down. Thank you.

14 MR. BLOVIN: The state would call Officer Reyes.

15 MADAME CLERK: Officer, would you come forward to be

16 sworn, please. Please place your left hand on the Bible and

17 raise your right.

18 Mauricio Reyes, being

19 duly sworn testified as follows:

20 MADAME CLERK: Thank you. You may be seated. Would

21 you please state your name for the record.

22 MR. REYES: Mauricio Andres Reyes.

23 MADAME CLERK: Thank you.

24 Direct Examination by Mr. Blovin:

25 Q. Officer Reyes, can you please tell me what your

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 occupation is.

2 A. Police officer.

3 Q. And how long have you been a police officer?

4 A. Coming up on eight years.

5 Q. Eight years. And what do you do as a police officer?

6 What are you assigned to do?

7 A. Uniform patrol. We answer basic calls for service.

8 Q. Okay. We're going to talk about an incident that
9 happened on May 26th of 2014. Do you remember that day?

10 A. Yes, sir.

11 Q. Can you tell me how you got involved with this
12 situation?

13 A. I received a call from Officer Sturman that there was
14 going to be a vehicle in my area that was possibly involved
15 in drug activity.

16 Q. Okay. Did he describe that vehicle?

17 A. Yes, he did.

18 Q. What was the description of that vehicle?

19 A. A two door white Monte Carlo, white in color with blue
20 racing stripes and twenty-four inch rims.

21 Q. Okay. And where was that vehicle supposed to be?

22 A. Joe Louis Street.

23 Q. Okay. And do you remember about how long after you
24 received that call from Sturman that you were supposed to
25 see this vehicle?

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

39

1 A. I received the call just before nine. And the traffic
2 stop took place at 9:18.

3 Q. Okay. Did you know who the informant was that gave
4 that information to Sturman?

5 A. I did not.

6 Q. Okay. And what did you do once you received that
7 information?

8 A. I went to the area to patrol the area.

9 Q. Did you contact anybody beforehand?

10 A. I contacted my supervisor along with Officer Koepke,
11 which is our K-9 unit.

12 Q. Okay. And you did that before any ---

13 A. Correct.

14 Q. Okay. And did you observe the suspect vehicle?

15 A. I did.

16 Q. And where was it?

17 A. Coming off of Joe Louis Street.

18 Q. And was it during the time period that Officer Sturman
19 said it was going to be there?

20 A. It was.

21 Q. All right. And what did you do when you saw that
22 vehicle?

23 A. They took a right onto Queen Street. I then had to
24 conduct a u-turn to get behind that vehicle. He pulled into
25 a parking -- shopping center, a restaurant area. That's

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

40

1 when I activated my blue lights and made contact.

2 Q. Was the vehicle unique looking?

3 A. Yes.

4 Q. Did you see any other vehicles that looked like it?

5 A. I did not.

6 Q. All right. Did you observe how many people were in the
7 vehicle?

8 A. There were two occupants.

9 Q. Okay. And were you told who would be driving this
10 vehicle?

11 A. A subject by the name of "K" ---

12 Q. Okay.

13 A. --- was all I was given.

14 Q. All right. And what did you do when you pulled the
15 vehicle over?

16 A. I made contact with the driver, asked him to keep his
17 hands on the steering wheel, pulled him out of the vehicle.
18 I asked him for his identification at which time -- he was
19 placed in handcuffs before I asked him for his
20 identification at which time he stated he did not have one.

21 Q. Did he give you his name?

22 A. No.

23 Q. Okay.

24 A. And he also did not have a valid driver's license is
25 what I was told.

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

41

1 Q. So he was driving without a license?

2 A. Correct.

3 Q. All right. And did you ask him who owned the vehicle?

4 A. I did not at that time, but it did come up.

5 Q. And who did he say owned the vehicle?

6 A. He said his mother owned the vehicle.

7 Q. All right. At this point did you ask for consent to
8 search the vehicle?

9 A. Yes.

10 Q. Was he -- were you given consent to search the vehicle?

11 A. No.

12 Q. All right. What -- what happened next?

13 A. We -- I spoke to Officer Koepke of the circumstances.
14 He ran his K-9 around the vehicle, and the K-9 alerted.

15 Q. How long did it take Officer Koepke to get there?

16 A. He was there immediately during -- as the traffic stop
17 was occurring.

18 Q. Okay. And after you were told that he alerted to the
19 vehicle, what did you do?

20 A. I searched the vehicle.

21 Q. And what did you find pursuant to that search?

22 A. I found an open twelve ounce can of Bud Light in the
23 center console. And I also found a bag containing a chalky
24 brown substance.

25 Q. Okay. What did you do after you found those items?

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 A. I took them into my possession, field tested the baggy
2 on the scene.

3 Q. Okay. And how did the field test turn out?

4 A. The testing indicates it's supposed to be a purple or a
5 dark blue color. It came back as kind of a blackish color.

6 Q. So it was inconclusive at that time?

7 A. Correct.

8 Q. And did you -- did you submit those for testing?

9 A. I did.

10 Q. All right. Did you speak with Mr. Freeman, ---

11 A. I did, yes.

12 Q. --- the Defendant? And you learned his identity?

13 A. I did.

14 Q. And what was his first name?

15 A. Karacus.

16 Q. And what does Karacus start with?

17 A. A "K".

18 Q. Okay. And when you spoke to Mr. Freeman after finding
19 the bag of powder did you Mirandize Mr. Freeman?

20 A. I did Mirandize him.

21 Q. Okay. When you spoke with Mr. Freeman did anybody
22 claim those narcotics originally?

23 A. Originally, they -- no one claimed ownership of the
24 narcotics.

25 Q. Okay. Eventually did anyone claim ownership of ---

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

1 A. Eventually, yes.

2 Q. Okay. How did that come about?

3 A. I spoke to the female passenger about everything. She
4 denied ownership of the baggy as well. She was placed into
5 custody due to the pending charges. When Mr. Karacús
6 Freeman observed that, he grew kind of irate. And at that
7 time he claimed ownership of the bag.

8 Q. Okay. So he claimed ownership of the bag?

9 A. Yes.

10 Q. You didn't threaten Mr. Freeman?

11 A. I did not.

12 Q. You didn't coerce him in any way?

13 A. I did not.

14 Q. All you were doing was no one claimed the bag, so you
15 were going to arrest the other passenger in the car?

16 A. Correct.

17 Q. And that's what you would normally do under those
18 circumstances?

19 A. Correct.

20 Q. All right. Now I'm going to ask you about something.
21 There are no pictures or video of this incident?

22 A. Correct.

23 Q. Okay. Do you know why there are no pictures or video
24 of this incident?

25 A. I do not.

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 Q. Okay. Did you erase any video or pictures of this
2 incident?

3 A. Absolutely not.

4 Q. If you had a video of the incident would you have
5 downloaded it and turned it in per City protocol?

6 A. Yes.

7 Q. So just to your knowledge no video ever existed?

8 A. Correct.

9 Q. All right. And then what did you do with the brown bag
10 of powdery -- the bag of brown powdery substance once you
11 were -- once you had done everything?

12 A. After leaving detention, I went to property and
13 evidence where it was placed into a storage unit. It was
14 heat-sealed as well.

15 Q. At that point -- at that point in time was Mr. Freeman
16 arrested for the heroin charge?

17 A. No.

18 Q. Was he arrested?

19 A. Yes.

20 Q. What was he arrested for?

21 A. For driving under suspension, third and above, along
22 with the open container in the vehicle.

23 Q. Okay. Just to get this out of the way, did this all
24 happen in Greenville County?

25 A. Yes.

MAURICIO REYES - CROSS EXAMINATION BY MR. ROBINSON

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1 Q. All right. No further questions from the State.
2 Please answer any questions that Mr. Robinson would have for
3 you.

4 **MR. ROBINSON:** Please the Court.

5 **THE COURT:** Yeah.

6 **Cross Examination by Mr. Robinson:**

7 Q. Officer, you didn't have an opportunity to observe Mr.
8 Freeman engaging in any illegal activity, did you?

9 A. I did not observe him.

10 Q. Didn't observe him. As far as anything that would
11 indicate that was involving drug dealing or anything like
12 that, you never saw anything, did you?

13 A. Correct.

14 Q. Okay. Actually, you -- you observed him as far as the
15 traffic laws, he didn't make any improper lane changes. Yes
16 or no?

17 A. Correct.

18 Q. Okay. All the headlights were on, everything was --
19 there was nothing broken or anything of that nature,
20 correct?

21 A. To my knowledge.

22 Q. He didn't violate any traffic laws, did he?

23 A. Correct.

24 Q. Okay. And regarding this alleged drug transaction that
25 was going to take place from this informant, you had never

MAURICIO REYES - REDIRECT EXAMINATION BY MR. BLOUIN

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1 saw a drug transaction take place, did you?

2 A. I did not.

3 Q. Okay. Now, in fact, you had -- you, yourself, had
4 never worked with this informant before, had you?

5 A. No.

6 Q. And you just got this information from the other
7 officer that an informant had said a drug deal was going to
8 take place, correct?

9 A. Yes.

10 Q. But again, you never saw any drug deal take place?

11 A. Correct.

12 Q. Now, regarding the baggy that you found, isn't it true
13 the baggy was found inside the gear shift, is that right?

14 A. Yes.

15 Q. Okay. Was it stuck in the gear shift? Is that what
16 you said?

17 A. Stuffed into the opening of where the gear shift was,
18 yes.

19 Q. And you, I think, according to the report, you saw
20 something stick out, is that correct?

21 A. Yes.

22 Q. Okay. That's all I had. Thank you.

23 **Redirect Examination by Mr. Blouin:**

24 Q. You found drugs?

25 A. I did.

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 experience in working in the K-9?

2 A. Yes.

3 Q. Okay. Give a description to the Judge about that, if
4 you would.

5 A. Your Honor, we're certified through North American
6 Police Work Dog Association in narcotic detection as well as
7 patrol work. We've been certified since the beginning of
8 2013 and have subsequently certified October of 2013,
9 October 2014, October 2015.

10 We do maintenance training every Wednesday that I'm
11 scheduled to be at work. If I'm not at work, then we don't
12 do the maintenance training. But it's a ten hour training
13 session every day that I'm at work just to maintain what he
14 does.

15 Q. Okay. And what sort of -- what sort of aspects of law
16 enforcement is Valor trained to do?

17 A. The narcotic detection portion, he's trained to locate
18 the presence of narcotic odor. That's marijuana,
19 methamphetamine, heroin, cocaine and derivatives of those.
20 He's trained to alert -- find it in vehicles, buildings,
21 areas. We also do patrol work, which consists of tracking,
22 apprehension work, obedience, building searches for persons,
23 area searches for persons and evidence searches as well.

24 Q. Okay. And does Valor undergo any kind of -- did you
25 and Valor undergo any kind of recertification?

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 A. Yes. We recertify annually.

2 Q. Okay. And are you required to create a report when you
3 use Valor in the field?

4 A. That's correct.

5 Q. Okay. Describe the incident -- describe how you came
6 to be involved in this case.

7 A. On that night Officer Reyes contacted me by phone and
8 informed me that there was about to be a drug deal that was
9 about to happen in the area of Joe Louis Street in
10 Greenville. He said that the drug dealer would be in a
11 white Monte Carlo with blue racing stripes and big rims.
12 And he asked me to come to that area.

13 Shortly after I got in the area, Officer Reyes located
14 the vehicle and initiated a traffic stop. I saw him as he
15 was stopping the car and pulled in right behind him. I
16 think it was 1148 Pendleton Street.

17 Q. Okay. And what -- about what time did that occur?

18 A. I believe my report has it at 9:18 pm.

19 Q. Okay. And so you were there almost simultaneously with
20 Officer Reyes?

21 A. That's correct.

22 Q. Okay. How did Valor get involved in this?

23 A. Officer Reyes stated that the Defendant refused consent
24 to search the vehicle and that Officer Reyes had reasonable
25 suspicion to believe that the driver was involved in

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 narcotic activity. So he requested that I use Valor for a
2 narcotic sniff at the vehicle.

3 Q. Okay. Did you have any kind of conversation with Mr.
4 Freeman about that?

5 A. I talked to him briefly, why I was there and what I was
6 about to do.

7 Q. Okay. What did he -- what did you -- what kind of
8 questions did you ask him?

9 A. I asked him if he understood the difference between the
10 presence of narcotic substance and the presence of narcotic
11 odor. And then I asked him if there was any reason that my
12 police dog would alert to the presence of narcotic odor in
13 his vehicle.

14 Q. Okay. Did he tell you any reason why?

15 A. He said that he had just smoked reefer before he got in
16 the car.

17 Q. Okay. What'd you do next?

18 A. I got my K-9 out of the vehicle using a six foot lead
19 attached to his flat collar and walked him to the passenger
20 headlight of the Monte Carlo and put him in a sit. I then
21 gave him the command to sniff for narcotics. And he began
22 moving counterclockwise around the vehicle as he sniffed.

23 Q. Okay. Is that pursuant to Valor's training?

24 A. Yes. As long as there's no obstruction blocking that
25 location of the vehicle, I always start him at the same spot

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 / in the same position every time.

2 Q. Okay. And that's pursuant to your training as well?

3 A. Yes.

4 Q. What -- after Valor started what happened?

5 A. As soon as he hit the driver's door, I began seeing
6 distinct behavior changes consistent with his training,
7 alerting to the presence of narcotic odor. We proceeded
8 around the vehicle. And he had those behavior changes at
9 the trunk as well. And then he had the same behavior
10 changes at the passenger side door. At that point he did
11 come to the final responsive sit.

12 Q. Okay. And what kind of response is that? What does
13 that tell you?

14 A. The response tells me that there's presence of narcotic
15 odor in the vehicle.

16 Q. Narcotic odor?

17 A. Yes.

18 Q. Okay. What did you do for Valor after that?

19 A. I awarded him with his toy and returned him to my car.

20 Q. Is that part of your training -- his training and your
21 training?

22 A. Yes.

23 Q. Okay. Did you inform -- what did you inform Mr. or
24 Officer Reyes of at that point?

25 A. That he had probable cause to search the vehicle.

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 Q. And why was that?

2 A. Because the K-9 alerted to the presence of narcotic
3 odor.

4 Q. I have no further questions. Please answer any
5 questions Defense counsel has for you.

6 MR. ROBINSON: I have no questions for this witness,
7 Your Honor.

8 THE COURT: All right. Thank you, sir. You may step
9 down.

10 A. Thank you, Your Honor.

11 MR. BLOUIN: Your Honor, that's the State's case for
12 probable cause, for reasonable suspicion to stop the vehicle
13 and search the vehicle.

14 THE COURT: All right. Anything?

15 MR. ROBINSON: Arguments, Your Honor?

16 THE COURT: Yeah.

17 MR. ROBINSON: Your Honor, first off, this motion that
18 I have for the suppression is based on reasonable suspicion
19 for the stop. Your Honor, the officer testified as far as
20 no traffic violations, as far as no headlights out, improper
21 lane changes, no erratic driving behavior, nothing that
22 would indicate that he was driving illegal or anything of
23 that nature.

24 Then I asked the officer as far as did he observe any
25 sort of illegal activity going on with Mr. Karacus Freeman.

1 And he said, no, I did not observe any -- any sort of
2 , illegal activity.

3 Judge, regarding the informant in this case, he is not
4 someone that they -- they may have known that he had had
5 drug charges, things like that, but I think the officer may
6 have testified that he had not worked with him before, that
7 also he was not someone -- that he had no idea about the
8 reliability of this person.

9 All he had -- all he had in this case without the
10 illegal activity, observation to see if this person, this
11 informant were reliable, all he had to do was get an idea of
12 was a drug transaction going to take place. He never
13 observed any drug transaction to back up and to corroborate
14 what this -- what this informant said.

15 And I would submit this informant was very unreliable.
16 He had no idea if he was reliable or not. He knew he was a
17 drug dealer. He had friends that were drug dealers, but
18 that does not mean he was a reliable witness that they'd
19 used in the past to be an informant in these cases.

20 What we have is a phone call that they don't know what
21 number he called, they didn't know who he called, could be
22 anybody. He said it was "K". But that's all they really
23 have in this case.

24 We don't believe -- I would submit, Your Honor, that
25 there was no reasonable suspicion for this stop to take

1 place. Now if he had observed that this informant gave him
2 credible information, that he saw a drug buy take place, but
3 he didn't see any of that. He saw nothing in this case.
4 And as a result of that I believe that there was not
5 reasonable suspicion for this officer to go ahead and stop
6 this vehicle. Thank you.

7 **THE COURT:** All right. Yeah.

8 **MR. BLOUIN:** Your Honor, the State relies on two cases
9 as far as the reasonable suspicion for that stop. First,
10 State v. Rogers, which is 368 S.C. 529 and also State v.
11 Willard, which is 374 S.C. 129. If I may approach, I have
12 copies of that for you and your clerk.

13 Your Honor, if I may point directly to the Willard
14 case. The facts in Willard are almost identical to the
15 facts that we have here. In Willard an individual was
16 picked up on a bench warrant for failure to pay child
17 support. He also was found with a quantity of
18 methamphetamine.

19 He agreed to help the officer, cooperate with the
20 officer in setting up a drug transaction for help on the
21 charges. A phone call was made from the officer's phone at
22 this point, not the informant's phone, basically setting up
23 the drug transaction.

24 Officers then went to where the drug transaction was
25 going to take place. They took down the vehicle. Actually,

1 the court goes as far as to say that they had probable cause
2 to search the vehicle due to exigent circumstances of the
3 automobile exception. The informant wasn't even present
4 when that transaction or that take-down took place.

5 Your Honor, the court in Willard also states that
6 although the informant in this case was not previously
7 proven reliable, this is page 4 of 5, as in Rogers, -- and
8 that was the other comment, the officer never worked with
9 this informant before. The informant correctly identified
10 Willard's vehicle, knew Willard's phone number and mentioned
11 drugs during the conversation with Willard.

12 Although the informant's reliability had not previously
13 been tested, a non-confidential informant is given even a --
14 is given a higher level of credibility because he exposed
15 himself to liability should the information prove to be
16 false. Thus we find support to affirm the trial court's
17 finding of reasonable suspicion for the stop.

18 Your Honor, it's almost exactly the same here. The
19 informant identified the vehicle, which when passed on was a
20 very unique vehicle that they stopped. There were drugs
21 mentioned during the conversation Officer Sturman heard on
22 speaker phone. The informant called "K", the Defendant, on
23 his phone.

24 So he had prior knowledge of drug activity -- prior
25 knowledge of drug activity. And like the informant in this

1 case, Mr. Arnold had never been used before, no officers had
2 -- were aware of his prior drug history and knew that
3 because of his history with drugs he would know where to get
4 drugs.

5 The court goes even further in Willard and actually
6 says that they find exigent circumstances for a warrantless
7 search, arising from mobility, as required under California
8 v. Carney.

9 Your Honor, we actually have a drug sniff, you know, an
10 indication -- it's furthered before they actually search the
11 car. They didn't just rip him out and search it. He was
12 actually under arrest at the time. Would have been placed
13 under arrest for driving under suspension, third.

14 Koepke, the K-9 officer, there was no extended search.
15 He arrived at the same time as the pull-over per their
16 testimony. You know, so there was no length, you know, they
17 didn't extend any length of any stop of any kind.

18 Your Honor, we just think based on Rogers and Willard
19 that the State has shown that there was reasonable suspicion
20 of ongoing criminal activity to pull over Mr. Freeman.

21 **THE COURT:** All right. I think there was a
22 particularized objective basis for the reasonable suspicion.
23 And I'm going to deny your motion. Anything else?

24 (Pause)

25 **THE COURT:** This jury's been out now for about forty-

OPENING STATEMENTS - MR. OVERBY

1 Thank you.

2 MR. OVERBY: May it please the Court, Your Honor.

3 THE COURT: Yes.

4 MR. OVERBY: Ladies and gentlemen of the jury, good
5 afternoon. This is a case about heroin and a man who deals
6 in it, Mr. Karacus Freeman.

7 Mr. Karacus Freeman is charged with trafficking heroin.
8 That means that Mr. Karacus Freeman was found in possession
9 pursuant -- found in possession of four grams or more of
10 heroin. It's what the law provides.

11 The question for y'all to answer is whether he was in
12 possession knowingly of this, okay. And the State would
13 contend that he absolutely was because the evidence you're
14 going to hear comes from four to five witnesses.

15 It's going to start with Robert Camilio Arnold. Mr.
16 Arnold is an associate of Mr. Freeman. And Mr. Arnold on
17 May 26th, 2014 with law enforcement -- apted to assist law
18 enforcement in setting up a drug purchase.

19 MR. ROBINSON: Your Honor, I'm going to object with
20 this as far as opening statement arguing.

21 THE COURT: On what basis?

22 MR. ROBINSON: Argument, Your Honor.

23 THE COURT: Well, you make a brief statement about what
24 you think the facts will show. Don't get into argument. Go
25 ahead.

OPENING STATEMENTS - MR. OVERBY

1 **MR. OVERBY:** Very well, Your Honor.

2 He's going to come up here and he's going to tell you
3 about that. Now, Mr. Arnold's probably not going to tell
4 you the truth today. But you're going to hear from the
5 other officer, Officer Sturman, who was there when this
6 incident was set up.

7 And then the next thing you're going to hear from is
8 Officer Mauricio Reyes from the Greenville City Police
9 Department. And Officer Reyes is going to testify that he
10 received this information from Officer Sturman about the
11 vehicle that this Defendant was driving in and that he was
12 engaged in illegal narcotic activity.

13 After that, a stop occurs, begin to take a look at the
14 -- they begin to do an investigation, eventually. Officer
15 Koepke from the Greenville City Police Department has a K-9
16 that comes out. He's going to tell you about the K-9
17 operations, how a K-9 dog is used. And there's a dog sniff
18 that occurs in this case. He's going to tell you about
19 that.

20 Eventually Mr. Freeman's car is searched lawfully and
21 seven point five four (7.54) grams of heroin are found.
22 More than your four gram weight.

23 Ladies and gentlemen, it is the State's burden of
24 proof, and very importantly so, to show beyond a reasonable
25 doubt the elements of this offense, that he was in

OPENING STATEMENTS - MR. ROBINSON

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1 possession of four grams of -- of four grams or more of
2 heroin.

3 Reasonable doubt does not mean all possible doubt. It
4 means proof that leaves you firmly convinced of the
5 Defendant's guilt. That's what it is. It's not a fanciful
6 determination. It's not your wildest imagination. It's
7 proof that leaves you firmly convinced. I believe that the
8 evidence will show you, once you've heard all the testimony
9 from these officers and from Mr. Arnold, that Mr. Freeman is
10 guilty of trafficking heroin.

11 **THE COURT:** All right.

12 **MR. ROBINSON:** May it please the Court. Good
13 afternoon. As I said earlier, my name is Scott Robinson. I
14 practice in Greenville.

15 The prosecution and I obviously have a different view
16 of the facts in this case. But in this case the burden, as
17 the prosecutor said, is on them. They have to establish
18 their case beyond a reasonable doubt in this matter that Mr.
19 Freeman committed this crime beyond a reasonable doubt. And
20 we would submit they can't do that. If you look at the
21 facts, it's going to show they can't do that beyond a
22 reasonable doubt.

23 But in this case as you look at the evidence and look
24 at the -- and hear the testimony, think about what's
25 missing. Think about if there are any pictures, or any

OPENING STATEMENTS - MR. ROBINSON

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1 audio or anything like that that would indicate that there's
2 evidence of this case of anything that Mr. Freeman did.
3 There's going to be a complete lack of that in this case
4 because the State doesn't have it. They have speculation,
5 they have lots of things like that, but they don't have
6 evidence of this taking place.

7 Now, when y'all woke up this morning you may have
8 listened to the news, got on the internet and so forth. And
9 you may have thought you saw someone get arrested or
10 something of that nature. And you may have thought, well,
11 they got the guy. The person must be guilty. And you made
12 that assumption in this case.

13 But that assumption went out the door when you came to
14 this courtroom and took an oath 'cause in this courtroom
15 there is no assumption of guilt. The presumption of
16 innocence in this case is with Mr. Freeman in this matter.

17 And you need -- I'm going to ask you to look at each
18 and every part of the State's case, what it's lacking and
19 make the decision that speaks the truth. And that is that
20 Mr. Freeman is not guilty of this offense. Thank you.

21 **THE COURT:** All right. Call your first witness.

22 **MR. BLOUIN:** The State would call Robert Arnold.

23 **MADAME CLERK:** Mr. Arnold, if you'd come forward to be
24 sworn in, please. Please place your left hand on the Bible
25 and raise your right.

ROBERT ARNOLD - DIRECT EXAMINATION BY MR. BLOUIN

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1 **Robert Arnold**, being duly

2 sworn testified as follows;

3 **MADAME CLERK:** Thank you. You may be seated. Would
4 you please state your name for the record.

5 **MR. ARNOLD:** Robert Arnold.

6 **MADAME CLERK:** Thank you.

7 **Direct Examination by Mr. Blouin:**

8 Q. Mr. Arnold, where do you currently reside? What county
9 do you currently reside in?

10 A. Greenville.

11 Q. County.. And are you currently employed?

12 A. No, sir.

13 Q. Okay. Mr. Arnold, I'm going to talk to you about some
14 things that happened on or about May 26th, 2014. Do you
15 remember that day?

16 A. No, sir, I don't.

17 Q. Why don't you remember that day?

18 A. Well, for one, I have seizures.

19 Q. Okay. Do you remember getting arrested around May 26th
20 of 2014?

21 A. No, sir, I don't recall it.

22 Q. Do you recall getting arrested 2014?

23 A. Yes, sir, I do.

24 Q. Okay. And do you remember what kind of charges those
25 were?

ROBERT ARNOLD - DIRECT EXAMINATION BY MR. BLOUIN

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1 A. Drug charges.

2 Q. Were they specifically heroin charges?

3 A. No, it was cocaine.

4 Q. Cocaine? Okay. And did you -- you've been in trouble
5 in the past. Do you remember talking or getting arrested by
6 an Officer Sturman?

7 A. No, sir.

8 Q. Okay. Do you remember speaking with Officer Sturman
9 regarding helping you out for the charges that you face by
10 cooperating with police?

11 A. No, sir.

12 Q. Do you remember placing a telephone call to the
13 Defendant, Mr. Karacus Freeman?

14 A. No, sir, I don't.

15 Q. Okay. Do you know Mr. Freeman?

16 A. Not like that.

17 Q. Okay. But you know who he is?

18 A. Yes, sir.

19 Q. Okay.

20 **MR. BLOUIN:** Beg the Court's indulgence.

21 (Pause)

22 **MR. BLOUIN:** No further questions, Your Honor.

23 **THE COURT:** Cross.

24 **MR. ROBINSON:** I have no questions, Judge.

25 **THE COURT:** Okay. You can step down. Thanks.

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

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1 Q. Okay. And as a law enforcement officer do you have any
2 specialized training and experience that you go through?

3 A. We got trained at the Criminal Justice Academy in
4 Columbia. And we also do a lot of training classes for
5 investigations and narcotics.

6 Q. Okay. And with regards to -- with regards to your
7 position at the City Police Office, what was your role
8 there?

9 A. I was on patrol.

10 Q. Okay. And how long were you with the City?

11 A. Right at four years.

12 Q. Four years. Started about 2000 ---

13 A. August of 2011.

14 Q. 2011. Okay. Were you employed with the City on the
15 date of May 26th, 2014?

16 A. Yes.

17 Q. Okay. What was your role at that time?

18 A. I was on patrol.

19 Q. Okay. What -- how did you become involved in this
20 particular case?

21 A. On that particular date I arrested an individual,
22 Robert Arnold, who I later transported to the detention
23 center. I located some narcotics on him.

24 Q. Okay. Let's step back briefly, okay? How did you come
25 across Mr. Arnold?

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

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1 A. He was at Shemwood Crossing Apartments. And I -- from
2 previous encounters I knew he was on trespass from that
3 location.

4 Q. And where is Shemwood Crossing Apartments?

5 A. It's at [REDACTED].

6 Q. Okay. And that's in Greenville County?

7 A. It's Greenville.

8 Q. Okay. How is it that you became familiar with Mr.
9 Arnold?

10 A. There were two previous encounters. I arrested him for
11 marijuana and numerous times for trespassing at that
12 location.

13 Q. Okay. And he was on trespass notice at the request of
14 the apartment complex?

15 A. Yes.

16 Q. Okay. Now you said that you knew that he was engaged
17 in narcotics?

18 A. Yes.

19 Q. Okay. Talk a little bit about what happened from the
20 moment that you arrested him to the moment that you
21 discovered these pills.

22 A. Yes. I identified Mr. Arnold standing in front of the
23 apartments. And I knew he was on trespass. So at that time
24 I placed him under arrest and transported him to the
25 Greenville County Detention Center where I located three

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

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1 white pills, which was a scheduled substance. And at that
2 time we began discussing further assistance from him for a
3 further drug investigation.

4 Q. Okay. And you searched him pursuant to his arrest?

5 A. Yes.

6 Q. Okay. And you didn't find those drugs until you got
7 him to the detention ---

8 A. That's correct, sir. It was in his pocket.

9 Q. So when -- you started talking about an agreement that
10 y'all came to. Give me some -- give the jury some context
11 about that agreement.

12 A. The agreement was with his assistance in this drug
13 investigation I would assist him with the drug charges I had
14 against him.

15 Q. Okay. And what did you do -- what did Mr. Arnold
16 volunteer to do?

17 A. He advised he would make a phone call to one of his
18 drug dealers for heroin.

19 Q. Okay. And who was this drug dealer? Who did he say
20 this drug dealer was?

21 A. He identified him as "K", nickname as "K".

22 Q. Now where did this -- was this phone conversation --
23 was this phone call placed?

24 A. Yes. It was placed outside the detention center. We
25 walked out the front doors in front of the intoxilyzer room.

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

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- 1 Q. Okay. Is that in back of the detention center?
- 2 A. It's in the back of the detention center, but gated in.
- 3 Q. Was Mr. Arnold forced to make this phone call?
- 4 A. No, sir.
- 5 Q. Okay. What did -- what phone was used?
- 6 A. It was -- he used his cell phone.
- 7 Q. Okay. And was this phone call -- were you able to hear
- 8 this phone call?
- 9 A. Yes, that's correct. He ---
- 10 Q. Okay. And how were you able to hear this phone call?
- 11 A. He left it on speaker phone for me to listen.
- 12 Q. So you were able to hear both parties discuss?
- 13 A. That's correct, sir.
- 14 Q. Okay. Do you remember the specifics of the phone call,
- 15 the specific words, things of that nature?
- 16 A. Not the specific words, but it was more Mr. Arnold
- 17 asked where Mr. "K" was, asked if he had anymore stuff to
- 18 buy. And at that time he was given a location where "K" was
- 19 located at the current time.
- 20 Q. Okay. And what location was that?
- 21 A. In the area of Joe Louis, Queen Street area.
- 22 Q. Okay. And that's in Greenville County as well.
- 23 A. That's correct.
- 24 Q. All right. Now, and this was the conversation you
- 25 overheard both parties ---

ANDREW STURMAN - DIRECT EXAMINATION BY MR. OVERBY

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1 A. That's correct.

2 Q. Now, when -- what sort of details did you overhear with
3 regards to this -- with regards to this meeting that they
4 were ---

5 A. Mr. Arnold was able to describe "K's" vehicle to me.
6 He described it as a white Monte Carlo with blue racing
7 stripes and with rims on it.

8 Q. Okay. Sizable rims?

9 A. Pretty big rims, yes, sir.

10 Q. Okay. What kind -- any particular color or anything
11 ---

12 A. He said it was chrome rims.

13 Q. Okay. Now, when he made those particular -- when he
14 provided that information to you, what else did he tell you
15 about -- he said he'd be in the Joe Louis Street area.

16 A. Yeah, and he should be in possession of heroin.

17 Q. Okay. What time -- let me back up briefly. What time
18 did you meet with Mr. Arnold?

19 A. I arrested him -- made contact with him in Shemwood at
20 approximately 7:42 in the evening.

21 Q. Okay. And what time did this phone call take place?

22 A. Probably between 8:40 and 9:00 in the evening.

23 Q. Okay. All right. What did you do with that
24 information?

25 A. I relayed this information to Officer Reyes of the

ANDREW STURMAN - CROSS EXAMINATION BY MR. ROBINSON

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1 Greenville City Police Department.

2 Q. Okay. And then you had no further involvement in that?

3 A. That's correct, sir.

4 Q. What did you do with Mr. Arnold?

5 A. Placed him into detention on the trespassing charge.

6 Q. Okay. Did you charge him with the pills?

7 A. No, sir.

8 Q. Okay. And what did you do with the pills?

9 A. I placed them into property and evidence.

10 Q. And do you know where those pills are today?

11 A. They should be in property and evidence.

12 Q. All right. I have no further questions. Please answer
13 any questions Defense has.

14 **MR. ROBINSON:** Please the Court.

15 **THE COURT:** Yeah.

16 **Cross Examination by Mr. Robinson:**

17 Q. Officer Sturman, you took -- you took an audio of this
18 -- you recorded this, didn't you?

19 A. No, sir.

20 Q. So there's no recording that we could show the -- or
21 show the jury of this conversation that you supposedly had?

22 A. That's correct.

23 Q. Correct? Now, and you didn't -- in your investigation
24 with Mr. Arnold you didn't by chance get the number that he
25 called, did you?

ANDREW STURMAN - CROSS EXAMINATION BY MR. ROBINSON

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1 A. No, sir.

2 Q. So he could have called anybody pretty much, couldn't
3 he?

4 A. That's correct.

5 Q. So you have -- you have no information for this jury
6 that the number he called belonged to either Mr. Freeman or
7 anybody else? You have no idea, do you?

8 A. That's correct.

9 Q. Now as far as the -- as far as your investigation did
10 you -- did you happen maybe to trace the number that he
11 called at any time to see where that number went to?

12 A. No, sir.

13 Q. So you can't tell anything to this jury about who he
14 called or anything, can you?

15 A. The only thing I could say is Mr. Arnold identified the
16 individual as "K".

17 Q. Okay. And now you know the alphabet pretty well. You
18 know "K". You know a good number of people with the letter
19 "K" in their name, don't you?

A. Sure. Yes, sir.

21 Q. So you can't say that just one specific person is known
22 as "K", can you?

23 A. I can't say that.

24 Q. Okay. And you have no idea if the "K" that they're
25 referring to was Mr. Karacus Freeman or any other person,

ANDREW STURMAN - REDIRECT EXAMINATION BY MR. OVERBY

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1 can you?

2 A. That's correct.

3 **MR. ROBINSON:** I beg the Court's indulgence.

4 (Pause)

5 Q. That's all I have. Thank you, officer.

6 **MR. OVERBY:** Brief redirect, Your Honor.

7 Redirect Examination by Mr. Overby:

8 Q. Did you have any reason to believe that Mr. Arnold was
9 not telling you the truth?

10 A. No, sir.

11 Q. Okay. And did you do anything with regards to this
12 case other than relay that information?

13 A. No, sir. I just relayed the information.

14 Q. Okay. No further questions.

15 **THE COURT:** All right. Thank you. You can step down.

16 **MR. BLOUIN:** The State would call Mauricio Reyes.

17 **MADAME CLERK:** Officer Reyes, if you'd come forward to
18 be sworn in, please. Please place your -- thank you.

19 **Mauricio Reyes,** being

20 duly sworn testified as follows;

21 **MADAME CLERK:** Thank you. You may be seated. Please
22 state your name for the record.

23 **MR. REYES:** Mauricio Andres Reyes.

24 **MADAME CLERK:** Thank you.

25 Direct Examination by Mr. Blouin:

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 Q. Thank you, Officer Reyes. What do you do for a living?

2 A. I'm a police officer.

3 Q. And how long have you been a police officer?

4 A. Eight years.

5 Q. Eight years. And what -- what do you do as a police
6 officer? What are you assigned?

7 A. Assigned to uniform patrol. So we do patrolling of
8 neighborhoods along with call responsive.

9 Q. Are you assigned to a certain area of the City or does
10 it kind of shift depending on time of day, where you are,
11 that sort of thing?

12 A. I'm assigned to the west side of Greenville.

13 Q. Okay. And how long have you been assigned to the west
14 side of Greenville?

15 A. At least seven, six, seven years.

16 Q. Okay. Now, we're going to talk about the incident that
17 occurred on May 26th, 2014.

18 A. Correct.

19 Q. How did you get involved in this incident?

20 A. I received a call from Officer Sturman. And he told me
21 that there was going to be a ---

22 **MR. ROBINSON:** Objection, Your Honor. Hearsay.

23 **THE COURT:** Yeah. You can say what you did as a result
24 of your conversation. Don't tell us what he said.

25 **MR. BLOUIN:** Yes, sir.

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 Q. Officer Reyes, what did you do as a result of your
2 conversation with Officer Sturman?

3 A. I was involved in a drug investigation.

4 Q. Okay. Were you looking for a vehicle?

5 A. I was.

6 Q. What sort of vehicle was it?

7 A. It was a white, two door Monte Carlo with blue racing
8 stripes and twenty-four inch rims.

9 Q. Okay. Did you have information of who would be driving
10 that vehicle?

11 A. I received information that the driver ---

12 **MR. ROBINSON:** Objection, Your Honor. Hearsay.

13 **THE COURT:** No -- no, go ahead. You can proceed. Go
14 ahead.

15 A. By the name of "K".

16 Q. And where that vehicle would be located?

17 A. On Joe Louis Street.

18 Q. Okay. Is that in Greenville County?

19 A. Yes.

20 Q. All right. Did you make contact with a vehicle that
21 matched that description?

22 A. I did.

23 Q. Where did you see that vehicle?

24 A. I observed the vehicle leaving Joe Louis Street taking
25 a right onto Queen Street.

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 Q. Okay. And was it a unique looking vehicle?

2 A. Yes, very unique.

3 Q. Have you seen any other vehicles that looked like it?

4 A. I have not.

5 Q. All right. Did you make contact with that vehicle?

6 A. Yes.

7 Q. Please tell the jury what you did.

8 A. I observed the vehicle on Queen Street. I conducted a
9 u-turn. The vehicle crossed over Perry Avenue, took a quick
10 left into what we call the first walk, which is on Pendleton
11 Street. And at that time I initiated a traffic stop on the
12 vehicle.

13 Q. Okay. Before you initiated a traffic stop on the
14 vehicle did you contact anybody?

15 A. I did.

16 Q. Who did you contact?

17 A. I contacted my supervisor, Sergeant Conroy, along with
18 our K-9 unit, Officer Koepke.

19 Q. And this was based on information that you received
20 regarding that vehicle?

21 A. Yes.

22 Q. All right. And after you pulled over that vehicle what
23 did you do?

24 A. I made contact with the driver.

25 Q. And how many people were in the car?

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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- 1 A. Two occupants.
- 2 Q. Okay. Who was driving the car?
- A. A male.
- 4 Q. Okay. Is he in this courtroom today?
- 5 A. Yes, he is.
- 6 Q. Can you point him out for us?
- 7 A. He's right there.
- (Whereupon the witness pointed to the Defendant)
- 9 Q. And there was a female in the car as well?
- 10 A. Correct.
- 11 Q. Who did you make contact with?
- 12 A. The driver.
- 13 Q. Okay. And what did you do after that?
- 14 A. I asked him to step out of the vehicle. Due to the
- 15 investigation he was placed into handcuffs at that time.
- 16 Q. Okay. Did you ask to search the vehicle?
- 17 A. I did.
- 18 Q. Okay. Was that search based on information you'd
- 19 received?
- 20 A. Correct.
- 21 Q. And were you given permission to search the vehicle?
- 22 A. I was not given consent to search the vehicle.
- 23 Q. Okay. What did you do then?
- 24 A. I advised Officer Koepke of the situation and the
- 25 circumstances. Officer Koepke then ran his dog around the

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 vehicle.

2 Q. And Officer Koepke was on the scene at that time?

3 A. Yes, he was.

4 Q. Okay. And did you find out who owned the vehicle?

5 A. Later on I did find out who owned the vehicle, yes.

6 Q. Who was the owner of the vehicle?

7 A. I was told by the driver that his mother was the owner
8 of the vehicle.

9 Q. Okay. Now, how -- what did -- what did you observe
10 Officer Koepke do when he arrived or when he got his K-9
11 unit out?

12 A. He walked his K-9 around the vehicle, and the K-9
13 alerted.

14 Q. Okay. So what did you do after the K-9 alert?

15 A. After the K-9 alerted for the presence of narcotics, I
16 searched the vehicle.

17 Q. Okay. And tell the jury what you found pursuant to
18 that search.

19 A. I found a open Bud Light can, a twelve ounce can of Bud
20 Light in the center console. As I continued my search I
21 found a baggy with a brown chalky substance.

22 **MR. BLOUIN:** May I approach the witness?

23 **THE COURT:** Yes.

24 Q. Officer Reyes, I'm going to show you what's been
25 premarked as State's exhibit number 1. Do you recognize

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 what this is?

2 A. Yes.

3 Q. Would you please -- is this -- could you say what this
4 is?

5 A. It's the item that I found in the center console.

6 Q. Okay. Is it in the same condition as when you found
7 it?

8 A. Yes.

9 Q. Okay. And this looks substantially similar to what you
10 found in that car?

11 A. Correct.

12 Q. All right. And where did you find this?

13 A. I found that in the center, near the drive shaft -- the
14 gear shift, I'm sorry.

15 Q. And what did you do when you found this?

16 A. I pulled it out, took possession of it.

17 Q. Okay. And did -- what did you do after you took
18 possession of it?

19 A. I approached the driver, Mr. Freeman, and began to
20 question him about it.

21 Q. Okay. Did the driver tell you anything about that bag?

22 A. He denied knowing anything about the bag.

23 Q. Okay. What did you do next?

24 A. I then approached the passenger and I questioned her
25 about it as well. She also denied any knowledge of the bag.

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 Q. All right. At this point did the Defendant make any
2 statements?

3 A. I placed the female into custody as well due to the
4 narcotics being found where both of them could have
5 possession of it. And at that time I approached Mr. Freeman
6 again when he did make a statement to me.

7 Q. Okay. That Mr. Freeman?

8 A. Yes.

9 Q. And what did he tell you?

10 A. He advised me that the baggy was his.

11 Q. Okay. And it's this baggy right here that you've
12 identified as State's exhibit 1?

13 A. Correct.

14 Q. All right. And what did you do with the bag at that
15 point? Did you field test the bag?

16 A. I field tested the substance inside the bag, yes.

17 Q. Okay. And what did the field test come back as?

18 A. Inconclusive.

19 Q. All right. So what did you do then?

20 A. I then took it into possession where I placed it into
21 property and evidence. And I requested a drug analysis on
22 the items in the bag.

23 Q. Did you weigh the bag at that point?

24 A. Yes.

25 Q. Okay. Do you remember what the weight of the bag was?

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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- 1 A. I believe eleven grams, eleven point ...
- 2 Q. Okay. And -- okay. Once that was all done and it's
- 3 just you and the bag, ---
- 4 A. Um-hum (affirmative).
- 5 Q. --- what did you do with the bag next?
- 6 A. We put it into property and evidence, heat-sealed ---
- 7 Q. Explain how -- explain how that all works.
- 8 A. We take it into our possession. We have a storage
- 9 where we store all of our property and evidence. We have to
- 10 mark, date and initial everything. It is then heat-sealed.
- 11 And every -- basically every movement that that item takes
- 12 after then is documented.
- 13 Q. Okay.
- 14 **MR. BLOUIN:** And may I approach the witness one more
- 15 time, Your Honor?
- 16 **THE COURT:** Yes.
- 17 Q. Whose initials are these on this heat-sealed bag?
- 18 A. M.A.R. would be my initials.
- 19 Q. And what is the case number as you see it on that heat-
- 20 sealed bag?
- 21 A. It reads 02-14037497.
- 22 Q. And that is the same case number as in this case?
- 23 A. Yes.
- 24 Q. And lastly -- and this all happened in Greenville
- 25 County?

MAURICIO REYES - DIRECT EXAMINATION BY MR. BLOUIN

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1 A. Yes, it did.

2 Q. Now, Officer Reyes, there are no pictures of anything
3 that happened that went on?

4 A. Correct.

5 Q. There's no videotape of what went on?

6 A. Correct.

7 Q. This is you explaining how this whole thing went down?

8 A. Correct.

9 Q. Did you destroy any video?

10 A. I did not.

11 Q. Did you take any pictures?

12 A. No.

13 Q. If there was video of the incident would you have
14 uploaded it?

15 A. Yes.

16 Q. Is that the policy of the Greenville City Police
17 Office?

18 A. Yes.

19 Q. Okay. So there is no video?

20 A. No.

21 Q. And you took this bag and placed it into evidence with
22 the file number and -- after heat-sealing it?

23 A. Correct.

24 Q. Did you plant the drugs?

25 A. Absolutely not.

MAURICIO REYES - CROSS EXAMINATION BY MR. ROBINSON

1 Q. Okay. Please answer any questions that Mr. Robinson
2 has.

3 MR. ROBINSON: Please the Court.

4 THE COURT: Yes.

5 **Cross Examination by Mr. Robinson:**

6 Q. So the policy is to take a video of what you're doing,
7 isn't that correct, ---

8 A. Correct.

9 Q. --- in Greenville County, correct? And you decided not
10 to take a video of what you were doing in this case, isn't
11 that correct?

12 A. Well, I'm not sure what happened. It could be an
13 electronic failure. I don't know. But at that time a video
14 was not produced.

15 Q. Okay. So while you had an obligation by your policy,
16 Greenville City policy, some kind of policy, you did not
17 follow that policy, did you? Is that a fair statement?

18 A. Correct. The video did not work.

19 Q. But that video would have helped you or helped anyone
20 else, would help them to see that what you were doing and
21 what you allegedly found was actually found in that car?
22 That would help, wouldn't it?

23 A. It could, yes.

24 Q. And despite that you didn't take a video of what you
25 were doing in that car, correct?

MAURICIO REYES - CROSS EXAMINATION BY MR. ROBINSON

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1 A. Correct.

2 Q. So there's no way for this jury to tell what you did or
3 what they found -- what you found in that car, is there?

4 A. I've testified to what I did.

5 Q. But again, the question is there's -- there's no way
6 for this jury to corroborate through that video what you did
7 that day, is there?

8 A. There is no video.

9 Q. Okay. In fact, it's not just no videos, you didn't
10 take any -- there was no pictures taken either, was there?

11 A. No pictures.

12 Q. So you didn't take pictures of the inside of the
13 vehicle to indicate what you found, where you found it? You
14 didn't take anything, correct?

15 A. I did not.

16 Q. Okay. And that would prevent anyone corroborate -- be
17 able to corroborate what you did that day or that night when
18 you went into that car, isn't that correct?

19 A. Again, I've testified to what I did that night.

20 Q. But you would agree with me that that information would
21 be -- pictures would -- very helpful to this jury to
22 understand what you did that day?

23 **MR. BLOUIN:** Objection, Your Honor. That's

24 speculation. We don't know what the pictures would show one
25 way or the other if they were to ---

MAURICIO REYES - REDIRECT EXAMINATION BY MR. BLOUIN

85

1 **THE COURT:** It's all right. I'm going to let him ask

2 it. Go ahead.

3 A. Of course.

4 Q. What did you say?

5 A. I said of course.

6 Q. And as far as Mr. Freeman's statement to you that the
7 drugs was his, that was only after you had this girl in the
8 car put in handcuffs, isn't that correct?

9 A. Yes.

10 Q. Okay. But again, we don't have any video or pictures
11 of this conversation that you had with Mr. -- either Mr.
12 Freeman or the girl that was in the car, do we?

13 A. Correct.

14 Q. That's all I have. Thank you.

15 **Redirect Examination by Mr. Blouin:**

16 Q. Officer Reyes, did you intentionally not videotape
17 anything to your knowledge?

18 A. No.

19 Q. And how many different ways can there -- how many
20 different reasons could there be for there not being a
21 video?

22 A. Numerous.

23 Q. And you just don't know?

24 A. Correct.

25 Q. But you didn't intentionally not take a video?

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 A. I'm sorry, I couldn't hear you.

2 Q. I'm sorry. Where are you employed?

3 A. With the Greenville Police Department.

4 Q. Okay. In what capacity are you employed with the
5 Greenville Police Department?

6 A. I'm a K-9 handler.

7 Q. Okay. And as a K-9 handler what are your duties and
8 responsibilities?

9 A. I conduct narcotic searches with my K-9 unit. I also
10 do tracking, apprehension work, building searches for
11 suspects.

12 Q. Okay. And what's your K-9's name?

13 A. Valor.

14 Q. Valor? All right. And what kind of dog is Valor?

15 A. He's a mix. He's a German Shepherd and Belgian
16 Malinois mix.

17 Q. Okay. What does Valor and what do you have to go
18 through in order to be a K-9 handler?

19 A. I had to go through a six hundred hour course that was
20 taught by the sheriff's office to train him and myself to
21 become -- to become a police dog. I also do weekly
22 maintenance training. Every Wednesday we train for ten
23 hours. And I also do a national certification every year
24 through NAPWDA, which is the North American Police Work Dog
25 Association.

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 Q. And are there certain safeguards to make sure that you
2 and Valor are up to date on certifications?

3 A. Yes.

4 Q. And, I mean, I assume that y'all are both evaluated,
5 correct?

6 A. Yes.

7 Q. Okay. Tell me a little bit about that process.

8 A. Through the certification there's a bunch of different
9 things that we have to go through. For narcotic detection
10 we have to do vehicle narcotics, we do building narcotics
11 and area narcotics. The four odors that we're certified in
12 are marijuana, methamphetamine, heroin, cocaine and
13 derivatives of those.

14 So for vehicle narcotics they'll have six vehicles set
15 out for us. Four of the vehicles have hides, exterior and
16 interior hide. And there's two blank cars. We're not
17 allowed to make any mistakes. The dog alerts to the
18 presence of the odor. We reward them with a toy and
19 continue with the certification -- continue with the issues
20 of certification.

21 Q. What does the dog do when he alerts? And what does
22 alert mean?

23 A. Alert is actually a distinct behavior change that he
24 has in the presence of narcotic odor. His is -- he brackets
25 the odor. So when he's sniffing along a surface he'll hit

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 the odor and then turn back and recheck that area. He'll
2 sniff quickly, he'll wag his tail and his posture change.
3 He'll get more of a rigid posture. And then he comes to a
4 final response, which is a passive alert, which is a sit or
5 a down depending on the location of the narcotics.

6 Q. Okay. Did you -- how did you get involved in this
7 particular case, Officer Koepke?

8 A. I was contacted by Officer Reyes over the phone. He
9 told me that there's about to be ---

10 **MR. ROBINSON:** Objection, Your Honor. Hearsay.

11 **THE COURT:** Just talk about what your -- what you did
12 as a result of the conversation.

13 A. Okay. I responded to the area of Joe Louis Street to
14 look out for a white Monte Carlo with blue racing stripes
15 and large rims.

16 Q. Okay. And when you got in that area what did you
17 observe?

18 A. Officer Reyes was stopping a car matching that exact
19 description. I saw him pulling into the parking lot at 1148
20 Pendleton Street, and I got behind him and pulled into the
21 parking lot as well.

22 Q. Okay. And about what time was that?

23 A. It was about 9:19 or 9:18 pm.

24 Q. Okay. Now, did you observe anything with regards to
25 Officer Reyes -- Officer Reyes' approach to the vehicle?

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 A. Not that I recall, no.

2 Q. Okay. Did you -- what did you do while Officer Reyes
3 spoke with the driver?

4 A. I spoke with the passenger and stood by with her.

5 Q. Okay. Did you notice anything odd, anything like that?

6 A. Not with the passenger, no.

7 Q. Okay. What did -- where was Valor at this time?

8 A. He was in the back of my patrol car.

9 Q. Okay. Did you or Officer Reyes open the door in any
10 way at that time?

11 A. To my patrol car?

12 Q. No, to the Defendant's patrol car or to the Defendant's
13 vehicle. I apologize.

14 A. Not that I'm aware of. I had the female party step out
15 of the vehicle at one point.

16 Q. Okay. Why'd you do that?

17 A. Just to separate the parties.

18 Q. Okay.

19 A. To see if their stories matched.

20 Q. Okay. And did Officer Reyes have the driver step out
21 of the vehicle?

22 A. Yes.

23 Q. Okay. And is the driver of that vehicle in the
24 courtroom here today?

25 A. Yes.

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 Q. And, if you wouldn't mind, just identify him.

2 A. He's sitting in the white shirt at the table.

3 (Whereupon the witness pointed to the Defendant)

4 Q. Okay. When y'all asked them out of the vehicle did you
5 go into the vehicle at that time?

6 A. No.

7 Q. Okay. Did you manipulate the vehicle in any way?

8 A. No.

9 Q. Did you touch the vehicle in any way?

10 A. No.

11 Q. Okay. What did Officer Reyes -- what information did

12 Officer Reyes -- what did Officer Reyes ask you to do?

13 A. He asked me to deploy Valor for a narcotic sniff of the
14 vehicle.

15 Q. Okay. And what did you do?

16 A. I did deploy Valor for a narcotic sniff, but at first I
17 asked him if he had reasonable suspicion and if the driver
18 had refused consent.

19 Q. Okay. And what was the answer to those questions?

20 A. He said he had reasonable suspicion. And he said that
21 the driver refused consent to search the vehicle.

22 Q. Okay. Did Officer Reyes go into the vehicle at all
23 from what you observed?

24 A. No.

25 Q. Okay. Did Officer Reyes manipulate the vehicle at all

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 from what you observed?

2 A. No.

3 **MR. ROBINSON:** Objection, Your Honor. Calls for
4 speculation.

5 **THE COURT:** He asked him what he observed. Overruled.
6 Go ahead.

7 Q. Now after -- after you got the go ahead to go ahead and
8 use K-9 Valor what did you do? Describe the process that --
9 for the jury, the process of doing this dog sniff.

10 A. Okay. Typically I'll talk to the driver or the owner
11 of the vehicle if the owner's present, otherwise, I talk to
12 the driver and just explain to them what I'm about to do,
13 that I'll be doing an exterior narcotic sniff of the
14 vehicle. I'll explain the difference between narcotic odor
15 and the substance. And I'll ask him if -- is there any
16 reason that my dog would alert to the presence of narcotic
17 odor in your vehicle.

18 Q. Okay. And what's the next step after that?

19 A. Then I get my K-9 out of the vehicle using a six foot
20 lead, walk him to the passenger headlight of the vehicle and
21 place him in a sit. And then I give him the command to
22 sniff for narcotics, and we begin moving counterclockwise
23 around the vehicle.

24 Q. Okay. And what did Valor do when you started this
25 process?

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 A. When we reached the driver's door, Valor had distinct
2 behavior changes consistent with his training, alerting to
3 the presence of narcotic odor, the same -- the same behavior
4 changes I already explained to the jury. And then we
5 reached the trunk and he had additional behavior changes.
6 And then when he reached the passenger door, he had more
7 behavior changes. And then he came to the final response of
8 a sit at the passenger's door..

9 Q. And again, what does sit mean?

10 A. A sit is just a final response alerting to the presence
11 of narcotic odor.

12 Q. Okay. What did you do after that?

13 A. I rewarded Valor with a toy and returned him to my
14 patrol car.

15 Q. And is that pursuant to y'all's training?

16 A. Yes.

17 Q. Okay. Did Officer Reyes or you during this dog sniff
18 ever go into this vehicle?

19 A. No.

20 Q. Okay. Did y'all ever manipulate the vehicle in any
21 way?

22 A. No.

23 Q. Prior to the sniff?

24 A. No.

25 Q. Okay. After K-9 Valor alerted what did you do?

ERIC KOEPKE - DIRECT EXAMINATION BY MR. OVERBY

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1 A. I stood by with the female party while Officer Reyes
2 searched the car.

3 Q. Okay. And what did -- what did you observe Officer
4 Reyes find?

5 A. A clear plastic baggy with a beige, powdery substance,
6 which I believed to be heroin.

7 Q. I have no further questions for you, Officer Koepke.
8 Please answer any questions Defense counsel may have.

9 **THE COURT:** Cross.

10 **MR. ROBINSON:** No further questions. Thank you.

11 **THE COURT:** All right. Thanks. You can step down.

12 A. Thank you, Your Honor.

13 **MR. OVERBY:** Your Honor, may we approach?

14 **THE COURT:** All right.

15 (Whereupon a bench conference was held off the record,
16 in the presence of the jury, but out of their hearing)

17 **THE COURT:** All right. Ladies and gentlemen, we just
18 had a little logistics conference about location of
19 witnesses and so forth. We're going to break now for lunch
20 until 2:15. I hope that'll give you adequate time to get a
21 bite to eat and take care of any personal business you might
22 need to take care of.

23 Remember, don't discuss the case. Don't visit the
24 location. Don't go on the internet. And y'all have a nice
25 lunch. We'll see you back at 2:15. Thank you. Everybody

KELLY DIXON - DIRECT EXAMINATION BY MR. BLOUIN

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1 sworn testified as follows;

2 **MADAME CLERK:** Thank you. You may be seated. Would
3 you please state your name for the record.

4 **MS. DIXON:** Kelly Dixon.

5 **MADAME CLERK:** Thank you.

6 **Direct Examination by Mr. Blouin:**

7 Q. Ms. Dixon, where are you employed?

8 A. I'm currently employed at the Laurens Middle School.

9 Q. Okay. And where were you employed before Laurens
10 Middle School?

11 A. Greenville County Department of Public Safety in the
12 Crime Lab Division.

13 Q. How long were you employed there?

14 A. Five years.

15 Q. And what were your duties while employed there?

16 A. I was a forensic chemist, and I analyzed substances
17 that were believed to be controlled substances.

18 Q. And what type of training/education did you have to
19 qualify for that position?

20 A. I have a bachelor's degree from Southern Wesleyan
21 University. And I trained for over a year under the
22 supervision of our lab supervisor.

23 Q. Have you had to chemically analyze substances to
24 determine whether they contained controlled substances?

25 A. Yes, I have.

KELLY DIXON - DIRECT EXAMINATION BY MR. BLOUIN

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1 Q. And how many times would you say you've done that?

2 A. Thousands.

3 Q. Have you had to chemically analyze substances to
4 determine if they contained heroin?

5 A. Yes, I have.

6 Q. And how many times have you done that?

7 A. Thousands.

8 Q. And was chemical analysis a regular part of your
9 duties?

10 A. Yes, sir.

11 Q. And have you ever been qualified as an expert in
12 chemical analysis in Greenville County?

13 A. Yes, sir.

14 Q. How many times?

15 A. Six.

16 Q. Okay. And have you ever testified in court?

17 A. Yes, sir.

18 Q. How many times?

19 A. Six.

20 **MR. BLOUIN:** Your Honor, at this time we would present
21 this witness as an expert in the field of chemistry and
22 analysis of controlled substances.

23 **MR. ROBINSON:** No objection, Your Honor.

24 **THE COURT:** Okay.

25 Q. All right. Ms. Dixon, tell us how you became involved

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1 in this case.

2 A. Well, I usually, when I was employed there, I would go
3 down to property and evidence and retrieve cases that were
4 selected randomly for me to test.

5 Q. Okay.

6 A. And this was the one given to me.

7 Q. Okay.

8 **MR. BLOUIN:** May I approach the witness, Your Honor?

9 **THE COURT:** I'm sorry?

10 **MR. BLOUIN:** May I approach the witness?

11 **THE COURT:** Yeah.

12 **MR. BLOUIN:** Okay.

13 Q. I am showing you what's been premarked as State's
14 exhibit number 1. Can you identify what that is?

15 A. Yes. Those are my initials and at the top with the
16 date that I sealed it.

17 Q. Okay. So tell me, what would you do when you would
18 pick up a bag like this?

19 A. I would take it back to our laboratory. And if it was
20 sealed, then I would conduct my investigative -- and conduct
21 my testing. And if it was not sealed, I would take it back
22 down to property and evidence.

23 Q. So the heat-sealed bag had to be sealed ---

24 A. Yes, sir.

25 Q. --- for you to even touch it or test it?

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- 1 A. Yes, sir.
- 2 Q. And in this case was it sealed?
- 3 A. Yes, sir.
- 4 Q. Okay. So it's sealed, you've taken it to the lab.
- 5 What do you do with it next?
- 6 A. I would conduct my testing upon it.
- 7 Q. All right. What would that testing entail?
- 8 A. In this case it would be a chemical spot test to
- 9 indicate what drug may be there.
- 10 Q. Okay.
- 11 A. And then I ran it on our gas chromatograph mass
- 12 spectrometer for conclusive evidence.
- 13 Q. All right. And would you weigh it?
- 14 A. Yes. I would weigh it before testing.
- 15 Q. Okay. So you would weigh what's in the bag before
- 16 testing. After you weighed it, what would you do? Would
- 17 you take ---
- 18 A. I'd take a sample.
- 19 Q. Okay. And then with the rest of it that's not used for
- 20 the sample, what would you do with it?
- 21 A. Put it back in that bag and seal it up.
- 22 Q. Seal it up. And you'd put your initials on it?
- 23 A. Yes, sir.
- 24 Q. Like you did right here?
- 25 A. Yes, sir.

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1 Q. Okay. So you ran a GCMS test on it?

2 A. Yes, sir.

3 Q. Can you explain what that is?

4 A. A gas chromatograph mass spectrometer is an instrument
5 that we use in the lab to determine what substances are
6 controlled substances.

7 Q. Okay. And you ran the sample from this bag through
8 that device?

9 A. Yes, sir.

10 Q. And with a reasonable degree of scientific certainty
11 can you tell me what's in this bag?

12 A. Heroin.

13 Q. Heroin. Okay. And this is the same bag that you took
14 out -- how do you know it's the same bag?

15 A. I know it's the same bag because I heat-sealed the
16 original bag inside of there. And my initials and the date
17 have not been tampered with.

18 Q. And it hadn't been tampered with when I showed it to
19 you?

20 A. No.

21 **MR. BLOUIN:** Your Honor, at this point the State would
22 move to put State's exhibit number 1 into evidence.

23 **MR. ROBINSON:** No objection, Judge.

24 **THE COURT:** All right.

25 (Whereupon State's exhibit 1 was admitted into

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1 evidence)

2 Q. And you would also, when you finished your testing, you
3 would generate a report?

4 A. Yes, sir.

5 **MR. BLOUIN:** May I approach the witness, Your Honor?

6 **THE COURT:** Yes.

7 Q. I'm showing you what's been premarked as State's
8 exhibit number 2. Can you tell me what that is?

9 A. This is my report for this case.

10 Q. And that's your signature on the bottom?

11 A. Yes, sir.

12 Q. And has that been altered or changed in any way?

13 A. No, sir.

14 Q. And that involves the same heroin that was in that bag
15 right there?

16 A. Yes, sir.

17 Q. All right.

18 **MR. BLOUIN:** Your Honor, at this time we'd move State's
19 exhibit 2 into evidence.

20 **MR. ROBINSON:** No objection.

21 **THE COURT:** Okay.

22 (Whereupon State's exhibit 2 was admitted into
23 evidence)

24 Q. Once it is tested and resealed, what do you do with it?

25 A. I take it back to property and evidence for storage.

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1 Q. Okay. And do you remember the weight of the heroin in
2 this bag?

3 A. According to my report it was seven point five four
4 (7.54) grams of heroin.

5 Q. And you would write it also on the bag, outside the
6 bag?

7 A. Yes, sir.

8 **MR. BLOUIN:** Beg the Court's indulgence just one
9 moment.

10 (Pause)

11 Q. One last question, would there be a difference between
12 the official weight and the field weight of a substance?

13 A. There could be. When I weigh it, I do not weigh it
14 with any packaging at all. I just weigh the substance
15 itself. So if the officer had weighed it inside the bag,
16 then it could have been heavier when he weighed it.

17 Q. But this is the official weight of the substance?

18 A. Yes, sir.

19 Q. All right. No further questions. If you could please
20 answer any questions that Mr. Robinson has for you.

21 **THE COURT:** Cross.

22 **Cross Examination by Mr. Robinson:**

23 Q. Regarding the weight, though, you have no idea how the
24 officer weighed it or anything, do you?

25 A. Oh, no, sir.

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1 Q. So he could have just -- he could have actually taken
2 it out of the bag, weighed it, couldn't he?

3 A. He could have.

4 Q. Okay. That's all I have. Thank you.

5 **THE COURT:** All right.

6 **MR. BLOUIN:** No redirect, Your Honor.

7 **THE COURT:** You can step down. Thank you.

8 **MR. BLOUIN:** We'd ask that Ms. Dixon be freed from her
9 subpoena or released ---

10 **MR. ROBINSON:** No objection.

11 **THE COURT:** All right.

12 **MR. BLOUIN:** Your Honor, the State would rest at this
13 time.

14 **THE COURT:** All right. Mr. Foreman, ladies and
15 gentlemen of the jury, there's a couple of legal matters I
16 need to take up with the lawyers. So I have to excuse you
17 at this time to your jury room. We'll get right back with
18 you.

19 (Whereupon the jury exited the courtroom at 2:36 pm)

THE COURT: Motions.

21 **MR. ROBINSON:** May it please the Court. At this time
22 the Defense would argue a motion for a directed verdict in
23 this case, Your Honor. No evidence has been presented by
24 the State to justify a conviction in this matter. They've
25 presented no pictures, no video, no nothing in terms of

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1 **MR. ROBINSON:** Yes, sir, Judge.

2 **THE COURT:** Well, you didn't really contest anything.

3 **MR. ROBINSON:** I think the Court ruled on the statement
4 at the pretrial motion, Your Honor.

5 **THE COURT:** Yeah, I did. All right. Well, let's just
6 take a few minutes and then we'll get started. Let me just
7 get this charge put together. So we'll be at ease.

8 (Whereupon court was in recess at 2:41 pm)

9 (Whereupon court reconvened at 2:53 pm)

10 **THE BAILIFF:** Do you want the jury?

11 **THE COURT:** Yeah, let's get 'em.

12 (Whereupon the jury entered the courtroom at 2:54 pm)

13 **THE COURT:** All right. Mr. Foreman, ladies and
14 gentlemen of the jury, you'll remember in my opening
15 comments to you I described five parts of the trial. We've
16 now completed the first two parts. So we've had the opening
17 statements and now all of the evidence and testimony that's
18 going to be presented has been presented.

19 And we are at this time ready to move into the third
20 part of the trial, which are the closing arguments of the
21 attorneys. So I ask you to please pay close attention as
22 they advocate their positions to you.

23 **MR. BLOUIN:** Ladies and gentlemen of the jury, Mr.

24 Freeman over here is charged with trafficking heroin greater
25 than four grams. So, me, as a part of the State has to

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1 prove basically five things to you. I have to prove
2 identity. I have to prove that there was heroin, that Mr.
3 Freeman had possession of the heroin. And the fourth and
4 last thing is that that heroin weighed more than four grams.

5 Well, we already know the identity. Mr. Freeman was in
6 the car. There's no -- there's no question whatsoever
7 whether Mr. Freeman was in that car.

8 Two, there's no question that what is in this baggy is
9 heroin. You can look at it. You can bring it back into
10 your jury deliberation room. You can, I mean, study it.
11 That's heroin. And there is no question that that heroin
12 weighed seven point five four (7.54) grams, which is more
13 than four grams.

14 So that leaves us to possession. And I want to talk to
15 you a little bit about kind of wrapping everything up, about
16 how everything happened.

17 Now, the Defense is going to come up here and say,
18 well, there is no video of this, there is no pictures of
19 this. And I am here to tell you you're right, but that
20 doesn't mean it didn't happen.

21 And you as the jury, your job is to judge the
22 truthfulness of each of the witnesses who took the stand.
23 And I'm here to tell you that from the top of the chain to
24 the bottom of our witness list, the only person that has any
25 credibility issues, whose story doesn't, you know, kind of

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1 line up with everybody else's is the first one, Mr. Arnold.

2 And Mr. Arnold came in here and he didn't remember
3 anything. Of course remember, Mr. Arnold already got the
4 benefit of his deal. As Mr. Sturman said, he never got
5 charged with the pills he was arrested for. He's got a
6 criminal past. He doesn't remember anything.

7 But remember, this isn't just a random fishing
8 expedition into the west side of Greenville to find, you
9 know, anybody that's using drugs. Officer Sturman right
10 there testified that there was -- there was a reason that we
11 got a description of a white Monte Carlo with blue racing
12 stripes, twenty-four inch chrome rims and a guy that goes by
13 the name of "K" is going to have a bunch of heroin on him.

14 He didn't just make that up. And if he did, then he is
15 clairvoyant. He doesn't need to be an officer. He needs to
16 be a fortune teller. So he's not even with these other
17 officers. He's at the law enforcement center.

18 So he picks up the phone and says, Officer Reyes, we're
19 looking out for a white Monte Carlo with blue racing
20 stripes, twenty-four inch rims and is driven by a guy named
21 "K". And guess what? He's going to have a whole bunch of
22 drugs because this guy, Arnold, just told me this.

23 And how do I know Arnold told me this? Because we were
24 on his phone, on speaker phone, and I heard the whole setup
25 kind of go down. And they're going to be on Joe Louis

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1 Street in Greenville County.

2 He said, okay. He works the west side of Greenville.
3 He's over there. He calls Officer Koepke. Officer Koepke
4 is the K-9 unit. Says, you know what, before anyone's been
5 pulled over, before anything's happened, he says, you know
6 what, we've got this report of this guy driving this certain
7 car and this is a very unique car, why don't you be here
8 just in case.

9 And guess what? Right at the exact time that they said
10 they would see a car on Joe Louis Avenue, they see a white
11 Monte Carlo with a blue racing stripe and twenty-four inch
12 chrome rims. Those rims are two feet in diameter.

13 And they pulled that car over. It's driven by the
14 Defendant, Karacus Freeman. Guess what? His first name
15 happens to start with a "K". Now, this isn't just random,
16 you know, happenstance. This is a chain of events that
17 takes place starting here and ends up there.

18 And remember, testimony of the officers, no one touched
19 or went inside the car until after the dog indicated that
20 there was the presence of drug odor. Officer Koepke and
21 Officer Reyes, we asked them to get out of the car. Did you
22 search the car at that point? No, I did not. Did you
23 manipulate the car in any way? No, we did not.

24 Well, what did you do? We ran the dog around like we
25 are trained to do. I think he said five or eight hundred

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1 hours worth of training with this dog. I know what this
2 dog's supposed to do. We do it the same time [sic] every
3 time. And guess what? It indicated this time.

4 And it wasn't until there was an indication by that
5 drug dog that anyone went into that car. And when they went
6 into the car, jammed into a gear shift, and you can look,
7 there's two kind of heat-sealed baggies here, there is what
8 looks to be kind of a plastic bag here kind of crumpled up,
9 which looks like what this was originally in, shoved in the
10 gear shift.

11 And he said he saw a piece of plastic sticking out and
12 pulled it out and guess what? Just like Mr. Arnold, who
13 once again, is not there, just like Officer Sturman said,
14 he's not there, said, a white Monte Carlo is going to be at
15 this place at this time, and it's going to have a whole lot
16 of heroin in it. And it had seven point five four (7.54)
17 grams, which is more than the four grams.

18 And here's the kicker. At the end of the day, after
19 all that, that man told Officer Reyes, that's my bag. So
20 see, we have possession. He has claimed it. This is his
21 bag of heroin. It weighs more than four grams. And it was
22 found in a car that they got a tip from way over here.

23 So I understand that, you know, like I said, the
24 Defense is going to come up and say, well, pictures would be
25 more helpful, well, a video would have been more -- we don't

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1 have that. You as the jury are the judge of the credibility
2 of those witnesses that took the stand.

3 Understand once again that two of those officers were
4 there. One of them just was connected through a phone call.
5 They pulled over one car that had a matching description and
6 they found this.

7 So I'm asking you to, you know, just think logically
8 about this and find that that man right there trafficked in
9 heroin in more than four grams. Thank you.

10 **MR. ROBINSON:** Please the Court.

11 **THE COURT:** Yeah.

12 **MR. ROBINSON:** Good afternoon again. It's been kind of
13 a quick day for you guys, hasn't it been? We appreciate you
14 being here and listening so intently.

15 There's a couple of things you'll need to think about
16 when you go back to the jury room. I want to -- let's take
17 a -- let's look at this little piece of information we have
18 here. Seven point five four (7.54) grams, remember the
19 person who came in? Now some of you have taken notes. And
20 I'm sure you've taken this down.

21 The officer, Officer Reyes, testified that he actually
22 took out of that car eleven point eight (11.8) grams.
23 Eleven point eight (11.8) grams. There's a big difference
24 here. Eleven point eight (11.8) grams that he said he took
25 out of the car, but now the people at the forensics say it's

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1 seven point five (7.5) grams.

2 So why the difference? Could it be that it's a
3 different bag? Because if you look -- if you listen to
4 Officer Reyes, he said, he testified that the bag, the
5 eleven point eight (11.8) grams tested negative for heroin.
6 So think about that. He got no heroin in the eleven point
7 grams [sic] that he testified to. And we've got seven point
8 five (7.5) grams in that baggy that she tested.

9 What we don't have here is any corroboration by anyone
10 that any sort of illegal act took place. The officer,
11 Officer Reyes said he never saw any illegal activity in
12 terms of watching for a drug buy or something like that or
13 some transaction. He said he never saw any of that.

14 But what's interesting is -- you know, common sense
15 plays a big part of this whole thing. And my dad used to
16 say that close only matters in horseshoes and hand grenades.
17 And the solicitor a second ago in his closing said about the
18 vehicle, he said it happened to match the description.

19 We're not talking about could've, would've, should've.
20 We're talking, that is the car. And he didn't say that. He
21 said -- didn't say that was the car. He said that happens
22 to match a description. Think to yourself how many Monte
23 Carlos are out there. There's a lot of Monte Carlos out
24 there, white Monte Carlo. And he said, happens to match the
25 description. He didn't say matched the description. He

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1 said happened to match the description.

2 But what overlays this whole thing for you all is, and
3 it's important, there's no video of any sort of what the
4 officer did when he went into the car, stopped the car and
5 so forth. There's nothing that you can hang on to establish
6 what took place. And he stated in his testimony that the
7 department policy is to video, but he didn't do that.

8 And you've got to ask yourself why is it that there's
9 no video, there's no pictures of this scene? And the
10 officer says eleven point eight (11.8) grams that he field
11 tested at the scene was not heroin.

12 So think about that. Why is it that this mysterious
13 bag that he allegedly found that was eleven point eight
14 (11.8) grams, how come that's not heroin and all of a sudden
15 we have a seven point five (7.5) gram bag that they didn't
16 -- no one testified that they found fingerprints or anything
17 on that bag that linked it to Mr. Freeman, nothing. There's
18 no testimony about that. But we have a bag that I would
19 submit is different, is not the same bag as this eleven
20 point eight (11.8) that Officer Reyes allegedly found at the
21 scene that was not heroin.

22 And as far as the phone call that we're talking about,
23 this phone call supposedly by this Mr. Arnold, he, by the
24 way, is a State witness. He's not my witness. He's a State
25 witness. You know, I'm not the one who brought him, they

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1 are.

2 He says he doesn't really know Mr. Freeman. He doesn't
3 remember the phone call. Okay. Let's just assume that he's
4 not telling the truth. Let's just assume that. But you
5 can't get around the testimony of Mr. Sturman. There's no
6 audio. There's no way they did not trace that number that
7 he called, that Mr. Arnold called to Mr. Freeman. Wouldn't
8 it make sense to you all if you're investigating a case to
9 tape it? And also find out where that number is, who the
10 number's connected to?

11 They don't have anything that connects it to Mr.
12 Freeman: All they have is an alleged phone call that Mr.
13 Sturman has no idea who it is. He doesn't know if it's him,
14 doesn't know if it's a number of his. They had him on this
15 whole thing about "K", but Mr. Sturman himself said he
16 doesn't know who "K" is. And he also stated that lots of
17 people have "K" as the first letter in their name. It's not
18 unusual. But they can't establish that "K" was Karacus
19 Freeman.

20 But, ladies and gentlemen, at the end of the day when
21 you go back to the jury room, you use your common sense.
22 And you don't have to like Mr. Freeman. You don't have to
23 like him. You don't have to like being here. You don't
24 have to like this situation. But at the end of the day if
25 you use your common sense you can see there's a big

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1 difference between seven point five (7.5) grams and eleven
2 point eight (11.8) grams at the scene.

3 I would submit to you that they took the bag, eleven
4 point eight (11.8) grams, that had no heroin in it. That's
5 the bag they found. And they also had no -- didn't see any
6 illegal activity. But I would submit to you if you use your
7 common sense and you look at everything through the careful
8 analysis of using it as guilt beyond a reasonable doubt,
9 they have not established their case. If you have anything
10 as far as doubt goes, you have to go in favor of Mr.
11 Freeman.

12 There's a famous saying that I use -- that I've seen
13 that I think is very apt with this case. And that's the
14 saying justice anywhere, excuse me, injustice anywhere is
15 injustice everywhere. I ask you to give a just verdict in
16 this case based on the facts, based on what the State's
17 presented. And if you do that, if you use your common sense
18 and look at the State's complete lack of evidence, no video,
19 no pictures, nothing, and the fact that there's eleven point
20 eight (11.8) not heroin versus seven point five (7.5)
21 heroin, that you come back to a just verdict, not guilty. I
22 want to thank you very much for listening. Thank you.

23 **THE COURT:** All right. Ladies and gentlemen of the
24 jury, during this trial you and I have certain duties to
25 perform. As the trial judge it is my responsibility to

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1 preside over the trial of the case and to rule on the
2 admissibility of the evidence offered during the trial.
3 It's also my duty to charge you the law applicable to this
4 case.

5 And it is your duty as jurors to accept and apply the
6 law as I now state it to you. As I told you in my opening
7 comments, if you think you have any idea as to what the law
8 is or what the law ought to be and it does not agree with
9 what I now tell you the law is, you must forget your own
10 idea because you have sworn an oath to set aside your own
11 opinions and apply the law precisely as I state it to you.

12 I also remind you that in every case tried in this
13 court before a jury, the jury is the sole and exclusive
14 judge of the facts. A trial judge is not allowed to have an
15 opinion about the facts of the case. So please don't think
16 by anything I may have said or done throughout the course of
17 the trial that I had such an opinion. I do not. It is
18 entirely up to you all to be the judge of the facts.

19 I instruct you that the fact that the Defendant was
20 arrested, charged and indicted in this case is not evidence
21 of guilt. Nor does it create a presumption or inference of
22 guilt. These documents are simply the formal written
23 instruments which contain the charges they've made against
24 the Defendant. And they serve as the formal documents by
25 which the case is processed and brought to court for

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1 resolution.

2 Now necessarily you must determine the credibility or
3 believability of the witnesses who have testified in the
4 case. It becomes your duty as jurors to evaluate the
5 evidence and determine which evidence convinces you that it
6 is true.

7 And in determining the believability of the witnesses
8 you may believe one witness over several or several over
9 one. You may believe a part of the testimony of a witness
10 and reject the remaining part. You may believe the
11 testimony of a witness in its entirety or reject the
12 testimony in its entirety.

13 You may consider whether the witness has an interest in
14 the result of the trial, whether the witness is prejudiced
15 towards either the State or the Defense, the opportunity for
16 the witness to have seen the matters and things about which
17 the witness has testified and the way the witness acts on
18 the witness stand or what we call a witness' demeanor.

19 Now I instruct you and I emphasize that the fact that
20 the Defendant did not testify is not a factor to be
21 considered by you in any way in your deliberations on the
22 question of guilt or innocence. It must not be considered
23 by you in any manner whatsoever. Every defendant has the
24 constitutional right to remain silent. And the assertion of
25 this right must not be considered by the jury in its

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1 deliberations.

2 The Defendant has pled not guilty to the indictment.
3 And that plea puts the burden on the State to prove the
4 Defendant guilty. A person charged with committing a
5 criminal offense in South Carolina is never required to
6 prove themselves innocent. I charge you that it is a
7 cardinal and a signal rule of the law that a defendant in a
8 criminal trial will always be presumed to be innocent of the
9 crime for which an indictment has issued unless guilt has
10 been proven by evidence satisfying you, the jury, of guilt
11 beyond a reasonable doubt.

12 A reasonable doubt is the kind of doubt which would
13 cause a reasonable person to hesitate to act. And
14 reasonable doubt may arise from the evidence which is in a
15 case or the lack or absence of evidence in a case. And you,
16 the jury, must determine whether or not reasonable doubt
17 exists as to the guilt of the Defendant. I remind you the
18 State has the burden of proving each and every element of a
19 crime beyond a reasonable doubt.

20 A statement alleged to have been made by the Defendant
21 has been admitted into evidence in the case. Now while the
22 Court has determined that the state -- that the statement is
23 admissible, I instruct you that you make the ultimate
24 decision of whether or not the Defendant made the statement.

25 If the Defendant did make the statement, you must

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1 determine whether the statement was made by the Defendant
2 voluntarily and of his own free will. This means that the
3 statement was not caused by pressure, force, fear, threats,
4 coercion or intimidation or by hope or a promise of leniency
5 or a reward of any kind.

6 And in determining whether this statement was voluntary
7 you should consider both the characteristics of the
8 Defendant and the details of the questioning. Some of the
9 factors that you consider are the age of the Defendant, the
10 Defendant's education or lack of education, Defendant's
11 mental ability or capacity, Defendant's IQ or intelligence,
12 the Defendant's background and environment, the place and
13 length of the detention, the nature of the questioning and
14 the advice or lack thereof to the Defendant of his
15 constitutional rights including, but not limited to, the
16 right to remain silent, that any statement could be used
17 against him in a court of law, the right to have a lawyer
18 present and that if he could not afford a lawyer, a lawyer
19 would be appointed to represent him without cost and that he
20 could stop making a statement at any time.

21 You must carefully consider all of the surrounding
22 circumstances before you give any weight to an alleged
23 statement. And the State has the burden of proving beyond a
24 reasonable doubt that the alleged statement was voluntary.
25 If you determine that it was, you may give the statement any

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1 further consideration that you deem proper. You must decide
2 what weight, if any, should be given to the alleged
3 statement.

4 And you -- if you determine the alleged statement was
5 not a free and voluntary statement of the Defendant, you
6 should not consider the statement at all.

7 The Defendant is charged with trafficking in heroin.
8 The State must prove beyond a reasonable doubt that the
9 Defendant knowingly sold, manufactured, cultivated,
10 delivered, purchased, brought into this State, provided
11 financial assistance or otherwise aided, abetted, attempted
12 or conspired to sell, manufacture, cultivate, deliver,
13 purchase or bring into this State or was knowingly in actual
14 or constructive possession, knowingly attempted to become in
15 actual or constructive possession of heroin.

16 I'll tell you that mere presence at the scene where the
17 drugs are found is not enough to prove possession. Actual
18 knowledge of the presence of the heroin is strong evidence
19 of the Defendant's intent to control its disposition or use.
20 And the Defendant's knowledge and possession may be inferred
21 when a substance is found on the property under the
22 Defendant's control.

23 However, this inference is simply an evidentiary fact
24 to be taken into consideration by you along with the other
25 evidence in the case and to be given the weight you decide

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1 it should have. I would also tell you that two or more
2 persons may have joint possession of a drug.

3 The State must also prove beyond a reasonable doubt
4 that the amount of heroin or any mixture containing heroin
5 was between -- was greater than four grams, but less than
6 fourteen grams.

7 Now, ladies and gentlemen, there are two possible
8 verdicts that you may reach in this case. No significance
9 the order in which I state them. One's got to be said
10 first. So they're either guilty or not guilty.

11 I want to tell you that your verdict must be unanimous.
12 All twelve of you must agree on the verdict. And your
13 verdict cannot be based on sympathy, passion, prejudice,
14 emotion or any other consideration which is not in evidence
15 in the case. You have no friends to reward. You have no
16 enemies to punish.

17 We've prepared a verdict form, Mr. Foreman. And we'll
18 send it back to you. I think it's very self-explanatory.
19 When you all have completed your deliberations and come to a
20 unanimous decision, please indicate at the appropriate place
21 and sign your name, alert the bailiffs, and we'll receive
22 you back into court to take your verdict.

23 So at this time, ladies and gentlemen, I'll excuse you
24 back to your jury room. Don't begin your deliberations just
25 yet. I have to go over the charge with the lawyers, make

CHARGE OF THE COURT

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1 sure I didn't misstate something or omit something.

2 When the verdict form comes back along with all of the
3 evidence, then y'all can begin your deliberations. So at
4 this time everyone except Mr. Enloe, please go with the
5 bailiffs. Say goodbye to Mr. Enloe for the day.

6 (Whereupon the jury exited the courtroom at 3:20 pm)

7 **THE COURT:** Mr. Enloe, this is the hardest part for me.
8 You've sat through the trial, you're just as qualified, but
9 I can't -- the law only allows twelve. So being an
10 alternate is like being a bridesmaid or kissing your sister
11 or something. You kind of, you know, go through it, but you
12 don't get to finish it off. So in any event, you're free to
13 go at this time. I would ask you to call back after 6:00.

14 **MR. ENLOE:** Yes, sir.

15 **THE COURT:** Thank you very much. All right.

16 Any exception or objection to the charge from the
17 State?

18 **MR. BLOUIN:** None from the State, Your Honor.

19 **THE COURT:** Defense?

20 **MR. ROBINSON:** No, sir, Your Honor.

21 **THE COURT:** All right. Y'all make sure the evidence is
22 right. Here's the verdict form.

23 (Whereupon the jury began deliberating at 3:22 pm)

24 (Whereupon court was in recess at 3:22 pm)

25 (Whereupon Court's exhibit 2 was marked)

1 (Whereupon court reconvened at 4:16 pm)

2 **THE COURT:** All right. We've got a question. What is
3 the definition of trafficking? Okay. So here's what I read
4 to them. You guys come and take a look at it. I'm going to
5 make six copies and send it back to them.

6 **MR. BLOUIN:** That works.

7 **MR. OVERBY:** We're fine, Your Honor.

8 **MR. ROBINSON:** Yep.

9 **THE COURT:** Okay. It's got the mere presence thing as
10 well. Did you see that?

11 **MR. BLOUIN:** Yes, sir.

12 **THE COURT:** All right. Six copies.

13 **MADAME CLERK:** Of each?

14 **THE COURT:** Yeah, please.

15 (Whereupon Court's exhibits 3 and 4 were marked)

16 **THE COURT:** You guys want to look at them? You just
17 saw her make the copies and tack them. You can look at them
18 if you want to.

19 **MR. OVERBY:** Judge, we trust the Court.

THE COURT: You can trust the clerk of court, you might
21 not want to trust me. Okay. All right.

22 (Whereupon court was in recess at 4:20 pm)

23 (Whereupon court reconvened at 4:55 pm)

24 **THE COURT:** All right. We've got a verdict.

25 (Whereupon the jury entered the courtroom at 4:56 pm)

VERDICT OF THE JURY

1 **THE COURT:** Mr. Foreman, I understand y'all have
2 reached a verdict.

3 **MR. FOREMAN:** We have, Your Honor.

4 **THE COURT:** Would you hand it to the bailiff for me,
5 please. Madame Clerk, would you publish it, please.

6 **MADAME CLERK:** Yes, sir, Your Honor. Your Honor, this
7 is case number 2014-GS-23-8489. As to the charge of
8 trafficking heroin, greater than four grams, but less than
9 fourteen grams, we, the jury, find the Defendant, Karacus
10 Korean Freeman, guilty. I certify that this decision was
11 the unanimous decision of the jury, signed foreperson, Bobby
12 Thatcher. If that was your verdict in the verdict room --
13 in the jury room and continues to be your verdict now,
14 please raise your right hand.

15 (Whereupon all jurors raised their right hand)

16 **MADAME CLERK:** Thank you.

17 **THE COURT:** All right. Thank you all very much. I
18 really appreciate your service. I hope you understand how
19 important it was. And I hope you have a deep sense of
20 satisfaction, if not, perhaps, today, at sometime in the
21 future that you participated in maintaining the order of our
22 society in Greenville County. So thank y'all very much.

23 I'm happy to tell you you're free to go for the day
24 since it's 5:00. Unfortunately I have to ask you to call
25 back after six. But thank you very much for your service.

SENTENCE OF THE COURT

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1 (Whereupon the jury exited the courtroom at 4:58 pm)

2 **THE COURT:** All right. Any motions?

3 **MR. BLOUIN:** None from the State, Your Honor.

4 **MR. ROBINSON:** None from Defense, Your Honor.

5 **THE COURT:** All right. Well, you got the ...

6 (Pause)

7 **THE COURT:** Okay. All right. What y'all need to tell
8 me?

9 **MR. BLOUIN:** Your Honor, he has four hundred and four
10 jail days credit. And as far as his criminal history;
11 2003, possession of crack, 2004, assault and battery, third,
12 2005, receiving stolen goods, ---

13 **THE COURT:** Wait a minute. '03, possession of crack.
14 Go ahead. That's the only one I got.

15 **MR. BLOUIN:** Okay. '04, A&B, third, '05, receiving
16 stolen goods, habitual traffic offender, probation
17 violation, '09, A&B, third, '11, DUS and '12 is a resisting
18 arrest in North Carolina.

19 **THE COURT:** Is all that true and correct?

20 **MR. ROBINSON:** Yes, sir.

21 **THE COURT:** All right. Well, is this being treated as
22 a first or second?

23 **MR. BLOUIN:** It's a first because of the 2003 is over
24 the ten year. He didn't get any active time.

25 **THE COURT:** Okay. Well, and you -- Mr. Robinson, you

SENTENCE OF THE COURT

1 renew your former motions?

2 **MR. ROBINSON:** I do.

3 **THE COURT:** I deny those. What can you tell me? What
4 do you want to tell me?

5 **MR. ROBINSON:** Judge, I could tell you a little bit
6 about Karacus. I have his family with me, his mother,
7 grandmother, fiancé and friends. Judge, I've dealt with
8 Karacus for a while now. He's always been a very good
9 client. He's always been very pleasant to deal with. He
10 has five children. And this is just -- this is just really
11 a tragedy, obviously.

12 **THE COURT:** Well, I don't know about tragic. I guess
13 in the classical sense he brought it on himself.

14 **MR. ROBINSON:** Well, Judge, we'd ask for the minimum
15 sentence or close to the minimum sentence.

16 **THE COURT:** Well, what are we doing here? I mean, he's
17 caught in the car with over seven grams of heroin. He
18 admitted it was his. Why are we here? Can you explain that
19 to me?

20 **MR. FREEMAN:** I never admitted to anything. I never
21 admitted to no drugs being in my car. A man came to the
22 door, he said he smelled reefer, reefer smoke. I had a
23 blunt on the floor that he didn't never even present to the
24 Court that they found on the floor that I admitted to. I
25 never admitted to no heroin, bag of heroin being mine. He

SENTENCE OF THE COURT

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1 was saying a bag, a baggy. He never said a baggy of heroin.

2 **THE COURT:** Wow. So what is that that was introduced
3 in court today?

4 **MR. FREEMAN:** I mean, that's heroin they said they
5 found, but he never presented a bag of heroin to me, period.

6 **THE COURT:** Well, was it yours?

7 **MR. FREEMAN:** No, it wasn't mine.

8 **THE COURT:** It wasn't yours? It was in your mother's
9 car?

10 **MR. FREEMAN:** It wasn't mine.

11 **THE COURT:** It was in the gear shift? Where was it?

12 **MR. FREEMAN:** So they say it was in the gear shift, but
13 they don't ---

14 **THE COURT:** In the ---

15 **MR. FREEMAN:** --- have any ---

16 **THE COURT:** --- gear shift.

17 **MR. FREEMAN:** --- evidence showing as it being in the
18 gear shift.

19 **THE COURT:** Oh, yes, they do. Ten years. Good luck.

20 You have ten days to file a notice of appeal.

21 (Hearing Ended at 5:04 pm)

22 (End of Requested Transcript of Record)

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
TRAFFICKING HEROIN

JUN 30 2015

At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That KARACUS KOREAN FREEMAN did in Greenville County, on or about the 26th day of ^{MAY} ~~March~~, 2014, knowingly sell, manufacture, deliver or bring into the State of South Carolina, or did knowingly provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver or bring into the State or was knowingly in actual or constructive possession of more than 4 grams of Heroin. This is in violation of §44-53-370 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 79870

DOCKET NO. 2014-GS-23-^{SLO} 008409

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

June TERM 2014

THE STATE

vs.

KARACUS KOREAN FREEMAN

ARREST WARRANT NUMBER
2014A2320601575

ACTION OF GRAND JURY

TRUE BILL

Wayne Shepherd

FOREMAN GRAND JURY
Foreperson of Grand Jury

VERDICT

Guilty

Robert S. Stuber
Foreperson of Petit Jury

Date: 4/15/16

Indictment for

2361

TRAFFICKING HEROIN

VIOLATION § 44-53-0370

ENTERED
ACCT.

FILED

SEP 22 2014

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA

508041

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS.

Karacus Korean Freeman

INDICTMENT/CASE#: 2014GS2308489
A/W#: 2014A2320601575
Date of Offense: 3/26/2014
S.C. Code § : 44-53-0370(E)(3)
CDR Code #: 2361

AKA:

Race: BLACK Sex: M Age:

DOB: SS#: [REDACTED]

City, State, Zip:

DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

(1-25-10)

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Drugs / Trafficking in Heroin, morphine, etc., 4 g or more, but less than 14 g - 1st offense

in violation of § 44-53-0370(E)(3) of the S.C. Code of Laws, bearing CDR Code # 2361
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] 80145 [Signature] [Signature] [Signature]
Bfovin, Hunter SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 404 PRU
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
 Set by SCDPPPS _____

PTUP _____ days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ 150.00
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 0.40
TOTAL		\$ 280.40

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

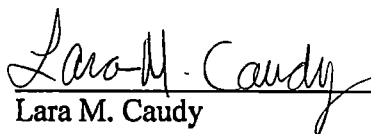
Clerk of Court/ Deputy Clerk [Signature]
Court Reporter: [Signature]
SCCA/217 (03/2011)

Presiding Judge [Signature]
Judge Code: 2130
Sentence Date: 4-5-2016

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Lara M. Caudy
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 7th day of September, 2016.

RECEIVED

SEP 07 2016

SC Court of Appeals